

BUSINESS ESTABLISHED 1886.

THE AMERICAN LAWYER.

H. GERALD CHAPIN, LL.D., Editor.

THE NEWS-JOURNAL OF THE AMERICAN BAR

RECORDS THE ACTION OF COURTS AND LEGISLATURES; DISCUSSES THE LIVING PROBLEMS WHICH CONCERN THE BAR; KEEPS ABREAST OF CURRENT LEGAL LITERATURE; GIVES THE NEWS OF LAWYERS AND LAW ASSOCIATIONS, AND REPORTS ALL MATTERS OF INTEREST TO LIVE PRACTITIONERS.

SUBSCRIPTION PRICE:

\$2.00 Annually in the United States, Canada and Mexico.
\$2.50 Annually in all other Countries.

STUMPF & STEURER, Publishers,

East 149th Street and Bergen Avenue, NEW YORK CITY
TELEPHONE, 161 MELROSE. (STATION R.)

Entered at the New York Post Office as Second Class Matter.

NEW YORK, JANUARY, 1902.

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RECEIPT OF DEPOSIT DURING INSOLVENCY OF BANK.

Judge Bardeen of the Supreme Court of Wisconsin in *Hayland vs. Roe* (87 N. W. 252), has taken occasion to discuss the liability of a bank for receiving deposits while insolvent, in the following language:

Section 4551, Rev. St. 1898, makes it a penal offense for an officer of a bank to receive money on deposit when he knows, or has good reason to know, that the bank is unsafe or insolvent. The officer or agent of the bank who disobeys the statute or neglects to perform the duty imposed thereby, to the injury of a depositor, is personally liable for all damages resulting proximately from such disobedience or neglect. *Baxter vs. Coughlin*, 70 Minn. 1, 72 N. W. 797. Bankers are held to a rigid responsibility for good faith and honest dealing. The acceptance of a deposit by a bank irretrievably insolvent constitutes such a fraud as entitles the depositor to reclaim his money if he brings himself within the rules of law hereinafter to be mentioned. A bank hopelessly insolvent cannot honestly continue its business and receive the money of its customers; and although there may be no intent to cheat and defraud a particular customer, it will be held to have intended the inevitable consequence of its act, which is to cheat and defraud all persons whose money it receives, and whom it fails to pay before it is compelled to stop business. *Railway Co. vs. Johnston*, 133 U. S., 566, 10 Sup. Ct. 390, 33 L. Ed. 683. This court has spoken on this subject in language too plain to be misunderstood. In *Baker vs. State*, 54 Wis. 368, 12 N. W. 12, the following language is used: “A bank implies capital, and capital invites confidence. A man holding himself out as a banker or broker thereby gives public proclamation that he has money, and property readily controvertible into money, in his possession, and subject to his control, and for that reason he may be fully trusted. It requires no argument to show that such assurance is most inviting and influential with the mass of the people, especially with those unacquainted with the history and character of the man. With them the banker or broker is entrusted with money simply because he is a banker or broker, and hence supposed to have surplus capital as a standing guaranty of his agreements and his integrity. For an insolvent banker, company or corporation to continue the business of banking is to hold out assurance of responsibility and surplus capital where neither exists. To do so knowingly is to secure the confidence, and hence obtain the money, of the ignorant and unwary by an implied deception. It is the old story of securing the victim by a display of false colors.” Banks stand upon a somewhat different footing from individuals. This difference is indicated by the language just quoted. Moreover, a bank is prohibited by law from continuing business after it has become insolvent. This is the effect of the statute. Not so as to an individual engaged in his private business. As said in *Clothing Co. vs. Thorp*, 102 Wis. 70, 78 N. W. 184, the individual may have “an honest, though abortive, purpose to continue business,” though founded in delusion and unreasonable expectation, and yet not be guilty of a fraud. In such a case, mere knowledge of insolvency, unaccompanied with false statements or artifices to deceive the trusting, is not considered fraudulent. Under the statute the bank has no right to continue business when its officers know, or have good reason to know, the bank has no right to continue business, then the intent to cheat and defraud whoever deals

with it irresistibly arises. The dishonest purpose comes from the knowledge of the officers, extends to all persons having dealings with the bank, and it is immaterial whether there was or was not a distinct intent to cheat or defraud a particular customer; otherwise, the bank might hide behind the alleged bona fides of the official, and the very purpose of the statute be defeated.

A LIBELLOUS WILL.

An exceedingly peculiar case is said to have been before the Orphans' Court of Pittsburg, Pa., on November 18 for decision. It was shown that the will of Rev. Father O. P. Gallagher contained a statement to the effect that one Brady, had received over \$3,000 from the testator for clothing, maintenance, education, etc., and had promised to repay it but had not paid a dollar, and that the testator had no intention of releasing said debt, and had bequeathed the same to James Corcoran and Marshall Gallagher to collect for their own use. Brady, who was a lawyer in Cleveland, thereupon filed a petition asking that the estate be held responsible for the libel in the sum of \$50,000. A demurrer was filed because of Gallagher's death, but the court overruled the demurrer, Judge Hawkins holding that the right of action did not abate with the death of the testator, because it had not accrued until after the death and publication of his will. This action certainly seems to be without precedent.

A HINDRANCE TO COLLECTION ATTORNEYS.

F. A. Agnew, of the Nebraska Bar, is at the present moment engaged in an attempt to bring about a reform which has our cordial endorsement. As collection attorneys are aware, there is a rule of the Post-office Department, which prohibits the giving out of addresses. This works great injustice when debtors have flown by night. Certainly this class is not entitled to much consideration, and it is somewhat mysterious why the rule was ever promulgated. It is a common experience that attorneys and business men are sometimes put to enormous trouble and inconvenience and are compelled to write to places hundreds of miles away to find the address of debtors, who were at that time, perchance, within two blocks of the creditor's office. Congress should take cognizance of the present state of affairs and we trust that Mr. Agnew will succeed in inducing them to do so.

"A GHASTLY FARCE."

An Irish judge recently commented on the ridiculous method at present adopted for ascertaining children's knowledge of the nature of an oath. He termed it "a ghastly farce," asking a child whether he knew what would happen to him if he told a lie, and accepting as satisfactory the invariable reply, "I would go to hell." There is truth in what the learned judge said, but all such criticism is useless unless accompanied by a suggestion of some better way. The time at trials is generally too precious to admit of a more extended theological examination of the witness. The "invariable reply," is no doubt largely due to the fact of previous coaching on the subject, and may or not be the child's real opinion or belief or indication as to whether he or she has any opinion or belief on the subject.—(Canada Law Review.)

MAINE VS. CONNECTICUT—RESULT OF THEIR BID FOR CORPORATION BUSINESS.

The recent change in the corporation laws of Maine has resulted in a large increase of revenue to the State. Thus far this year the fees from the organization of corporations amount to \$46,304, whereas last year the total receipts from corporation fees of every sort were but \$37,540. Should the months of November and December yield in proportion with the preceding months of the year, the receipts this year from organization fees will amount to \$55,000, a gain of 46 per cent. over 1900. It is expected that this sum will be exceeded, as the last two months of the year are usually prolific of new corporations.

In addition to this revenue, there will be franchise taxes enough to bring the total receipts for the year up to \$100,000.

On the other hand in Connecticut, the new corporation act has not thus far fully met the expectations of its promoters. It was anticipated that the liberal provisions of the measure would tend to divert to Hartford a considerable share of the business which has been going to Trenton and Doves.

As a matter of fact, however, the number of corporations which have been organized in Connecticut since the new law became operative on August 1, has not been materially larger than the previous standard. During the past few years about 200 corporations on the average have annually been formed under the general laws. In September, the total number of incorporations, both foreign and domestic, was 18, or just about the general average.

About 20 per cent. of the articles of incorporation which are filed at the secretary of state's office are foreign. Most of the companies which have been formed under the new law are comparatively small, and the capital stock of a great majority of them is less than \$100,000.

The expectation that a great many of the big industrial and commercial combinations that are being organized would take advantage of the Connecticut law has not thus far been realized. The biggest concern which has been incorporated under the act is the New England Prepared Food company, which has a plant in New Haven, but whose incorporators reside in Pennsylvania and Michigan.

A large number of requests for copies of the new law have been received at the secretary of state's office from promoters. Many of the promoters have intimated that they expected to utilize the new law, but they have not yet done so to any great extent. The act has, however, moderately increased the revenues of the State, because the minimum franchise fee which is accepted under it is \$25, which, at the specified rate of 50 cents per \$1,000, would cover a company with an authorized capital of most of the companies that are being organized is much less than \$50,000. Formerly there was no minimum fee of \$25, and consequently the franchise receipts from the incorporation of small companies are now larger than under the old law.

EXPENSE OF CZOLGOSZ'S TRIAL.

The expense incurred in the trial and conviction of Czolgosz, the assassin of President McKinley, was \$1,799.50. Of this sum \$500 was paid the attorney who defended him, \$1,000 to the alienists who examined him, \$144 to the deputies who guarded him, \$36 for pictures taken, and there is a bill of \$119.50 for the transporting of Czolgosz and his guards to Auburn.

THE ATTORNEY-GENERAL'S RECENT REPORT.

From the report of the Attorney-General of the United States it appears that there are 4,641 United States convicts now serving sentences in penitentiaries and that 1,650 prisoners were received during the last Government year. A suggestive feature of the report is the statement that of these 1,650 prisoners an overwhelming majority (1,378) were born in the United States. The fact that crimes within the Federal jurisdiction, as a rule, require more skill and craft than ordinary crimes, and that native-born citizens for the most part hold the Government positions, where breaches of trust are punishable by Federal law, probably explains the great predominance of the native element among the convicts sentenced by the Federal Courts. The nature of the crimes which the United States Court punish requires a considerable degree of knowledge; in some cases a very high order of address. We would, therefore, naturally expect that little crass illiteracy would be found among the convicts. Of the 1,650 criminals sent to the penitentiaries last year 1,193 could read and write, and 457 could neither read nor write.

The Attorney-General offers a number of recommendations that deserve the favorable consideration of Congress. The novel, multitudinous and intricate legal questions related to our insular possessions have greatly increased the business of the Department of Justice. It seems necessary, therefore, that special facilities should be afforded for their speedy adjustment. This can be accomplished, the Attorney-General suggests, by the establishment of an Insular Bureau of the Department of Justice. The Attorney-General again recommends that the salaries of the Federal Judges should be increased and invites Congress to consider the advisability of adopting a new and uniform system of commutation with respect to Federal prisoners.

JUDGE HANEY AND THE CHICAGO AMERICAN.

The interesting contempt case against the managing editor and a reporter of Hearst's Chicago American has finally been decided in favor of the newspaper men by Judge Hanecy. Judge Hanecy presided over the court which felt offended by the American's articles in criticism of his decision in a case affecting the Chicago surface railways. He held the criticism to be an attempt to intimidate the court in the discharge of its duty. The articles were undeniably offensive, and undoubtedly were unjust to Judge Hanecy. But the lawyers of the newspaper men, among whom ex-Gov. Altgeld was chief, were able to show in the contempt proceedings before Judge Hanecy that the articles were not printed until after his honor's decision in the corporation case had been announced from the bench. They were, therefore, in no sense, an attempt to intimidate the judge in coming to that decision. Judge Hanecy then took the position that, although his decision had been pronounced, the case had not been technically disposed of when the newspaper articles were published, and he pointed out that certain formalities of filing or recording the papers by the clerk of his court had never been performed. The issue was thus narrowed to the point whether the case was still pending before Judge Hanecy in such a sense that the newspaper men could be fairly adjudged guilty

of contempt of court for commenting upon Judge Hanecy's publicly-announced decision. Judge Hanecy sentenced the prisoners to a term in jail, and a writ of habeas corpus was immediately sought from Judge Dunn, who became involved in some dispute with Judge Hanecy as to his jurisdiction, but who has finally ordered the writ to be granted on the ground that the case in question had been finally disposed of when Judge Hanecy gave his decision upon it from the bench.

A REMARKABLE DIVORCE BILL.

A contemporary calls our attention to a somewhat remarkable bill for divorce recently filed in a West Virginia court. The reasons for sundering the marital bond are duly set forth as follows:

"Your petitioner shows that since the marriage of your petitioner his said wife Evelyn has continuously kept and maintained an assortment of venomous snakes and reptiles in the house of your petitioner, this being done without the consent and permission of your petitioner.

"And your petitioner further shows that on or about the 2d day of December, 1900, about 11 o'clock, P. M., the said Evelyn S. Hedler did retire for the night with your petitioner and that after having so retired the said Evelyn did arise and going to the receptacle in which were housed the venomous snakes and reptiles did take therefrom three snakes and came with them into the couch of your petitioner.

"And your petitioner further shows that after having toyed with the snakes some time, one of them did bite your petitioner on the left thigh causing the same to swell and occasioning your petitioner excruciating pain and necessitating your petitioner's immediate visit to Dr. Victor E. Reilly."

If this isn't "extreme cruelty" we fail to see what is.

THE MAKE-UP OF LEGISLATURES.

It is interesting to note the make-up of legislatures recently elected. That of New York may be regarded as typical. As has been the case for a number of years, the lawyers have the greatest percentage, there being 46 of them. The merchants number 11. Next come the farmers and real estate men, who break even with 9 representatives each. There are also in the Assembly 8 manufacturers, 4 doctors, 3 builders, 3 salesmen, 2 clerks, 2 editors, 2 hotel-keepers, 2 undertakers, 2 druggists, 1 dentist, 1 bookkeeper, 1 plumber, 1 veterinarian, 2 retired merchants and 2 who fail to state that they have any occupation.

MARYLAND BARS WOMEN.

Some time ago Miss Etta H. Maddox, a talented woman, of Baltimore, after graduating at the Law School, failed to obtain permission to take an examination before the Supreme Bench of Maryland for admission to the bar. She took the matter before the State Court of Appeals at Annapolis, which in the latter part of November decided against her.

Senator Jacob M. Moses, of Baltimore, has taken up the matter. It is his intention to introduce a bill, when the legislature convenes, giving women the right to practice law in this State.

In the decision the Court of Appeals says it is without power in the matter, quoting a law in the case

which uses the masculine pronoun throughout in referring to applicants.

In twenty-four out of the forty-five states women have been already admitted to the bar and are daily practicing in the courts. Those twenty-four states in-

clude all the greater ones—New York, Pennsylvania, Ohio, Illinois, Missouri, Indiana and all the New England States except Vermont and Rhode Island. Moreover a woman has been admitted to practice in the Supreme Court of the United States.

William M. Evarts, Lawyer and Statesman.

By J. Hampden Dougherty.

(Read Before the Law Department of the Brooklyn Institute, on October 28, 1901.)

Mr. Evarts' most conspicuous, perhaps sole, title to fame is, that he was a great lawyer and brilliant advocate. As such, he shone in the impeachment case against President Johnson and in the proceedings before the Geneva Tribunal. And as a lawyer, he urged before the Electoral Commission, that Mr. Hayes had a better title to the Presidency than Mr. Tilden. From his youth up his training had qualified him for forensic efforts, his study of legal principles was profound, his acquaintance with literature was wide, his ideas of professional ethics were exalted. He held great National offices, but his title to them was rather as lawyer than statesman.

Although of only medium height and of spare frame, he nevertheless presented a striking figure. His carriage was erect, his head well poised and conscious power was written in his face. His was a head worthy of the sculptor's art, with the lofty brow, the brilliant eyes, the long intellectual nose, the short but firm chin. A full-length portrait in oil of Mr. Evarts may be seen at the New York City Bar Association, and it shows his impressive features to advantage. Painted or sculptured, the head is distinctively an intellectual head, and the dominion of mind was written so plainly all over his features as to impress even the most casual observer.

The man himself (while essentially a man of his time) was happily descended and endowed. His father, Jeremiah Evarts, was first a lawyer and afterwards editor of a religious magazine, and corresponding secretary of the American Board of Commissioners for Foreign Missions, in the days when there was a fervor in mission propagandism. So alike were father and son in many characteristics, that one can almost imagine that the words pronounced at the funeral sermon of the father had been spoken over the remains of the son: "On all the subjects to which he turned his attention, whether literary, political or religious, he formed clear and comprehensive views; and whether he undertook to write or speak, he exhibited the riches of his mind in a diction uniformly natural, perspicuous or manly, and occasionally elegant and sublime. * * * He was distinguished by patience and fairness in his investigations, by the clearness and force of his reasoning, and by correctness in dispatch and business." Evarts' mother was a daughter of Roger Sherman, one of the signers of the Declaration of Independence, of whose stock Senator Hoar is also a scion. Both parents were of the stock which comes from the Mayflower, and Boston was the city of his nativity. Serious and scholarly in temperament, with a mind of wonderful vigor and keen penetration, he combined a spirit of the happiest good humor and the readiest and most poignant wit. He was a product of New England, not difficult to understand, after

Emerson and Holmes, Hawthorne and Webster. Nature had boxed large forces within his brain, and gifted him with the art of knowing how to co-ordinate them. His intellectual seriousness never degenerated into ponderousness. His sentences might be long, involved, and as difficult to construe as Milton's iambics, but they were never obscure, and every phrase, however parenthetical, was a necessary adjunct to the complete expression of his thought. If his rhetoric was labyrinthine, his clear brain always kept the clue. One sentence in his speech at Cooper Union, during the campaign of 1876, illustrates his peculiar power of verbal presentation: "The Democratic party produced, prolonged and embarrassed the Civil War." His intellect, with all its keenness, was stately, and expressed itself in majestic and commanding phrase.

The Boston boy, orphaned of his father at thirteen, after a course of study at the Boston Latin School, entered Yale College in 1833. He exhibited marked ability during his college career, both as a writer and debater, winning many college honors and graduating the third scholar in his class. In his class were men with whom it was his fortune to be associated, and to some of whom he was endeared, throughout his after life: Morrison R. Waite, afterwards Chief Justice of the Supreme Court of the United States, and one of Evarts' associates before the Geneva Tribunal; Samuel J. Tilden, whose friendship for him survived the stormy test of the proceedings before the Presidential Electoral Commission; Benjamin Silliman and Edward Pierrepont.

Graduating in 1837, the youthful Evarts went to Windsor, Vermont, to teach school in order to acquire means to prosecute his legal studies, following the same method of livelihood as many other American youths who lived to be famous. Later, he entered the Harvard Law School, and, while there, won the respect of Professors Joseph Story and Simon Greenleaf, who, although they were not destined to hear his argument in the Lemmon case, or his defence of Andrew Johnson, nevertheless might have divined the great advocate and distinguished jurist in the student who could give such lucid and penetrating answers to their questions, and who was so successful in moot court discussions.

It was a wise foresight which brought him to New York City to practice law. When he commenced his studies in Daniel Lord's office, the whole entourage of professional life was a contrast to present conditions. The Court of Chancery was still extant, and judges were appointed to office. The Senate formed a part of the Court of Errors, and many Senators were lawyers of distinction. In the Chancellorship sat Reuben H. Walworth, while Murray Hoffman and Lewis Sandford acted as Vice-Chancellors. On the Supreme

Bench were Samuel Nelson, afterwards to be elevated to the highest tribunal of the nation; Greene C. Bronson, John Duer, Esek Cowen; and in the Circuit Court, Ogdén Edwards. In the Superior Court Judge Oakley was presiding judge, and John T. Irving, brother of the celebrated Washington Irving, sat in the Common Pleas. The standard of the New York judiciary has been generally high, but at no period in the history of the State, has the ermine been worn by abler and purer men than those who held seats upon the bench between 1822 and 1847.

The acknowledged champions of the bar were Emmett, Peter A. Jay, Hugh Maxwell, Marshall S. Bidwell, Francis B. Cutting, John Van Buren, Marcus T. Reynolds, Daniel Lord, to whom Mr. Evarts freely acknowledged a great indebtedness, David Dudley Field, O'Connor and Brady. The State Constitution of 1847 enlarged the jurisdiction of the Superior Court, and it became a forum for the discussion and decision of important questions of commercial law, attracting the talents of the leaders of the bar. Here, in Evarts' early days, practiced many of the eminent lawyers whose names have been mentioned. In Sandford's Superior Court reports will be found many reported cases in which the young lawyer took part. The avenue of professional advance lay through earnest and profound study of law and the oratorical ability to expound and apply its principles to the case in hand. Into an arena where professional giants contended, young Evarts stepped, a skillful, adroit, accomplished gladiator. He came almost an unknown youth, yet, without the advantage of influential friends or the aid of family or wealth, his rise was rapid and constant to an acknowledged place, and before he was fifty he disputed the leadership of the bar with the veteran O'Connor.

Of Evarts' early political experience, little is definitely known. He was initiated into politics while a student in Mr. Lord's office, and spoke at ward meetings for Harrison and Tyler. He seems early to have conceived a genuine admiration for the young Whig leader, Governor Seward (although his first alliance was with the Fillmore wing), and the friendship which was formed between Seward and himself continued unbroken until Seward's death. It was a friendship destined to have a permanent effect upon the fortunes of both, chiefly of the younger of the two. In this State, the political situation was complex for a time after General Taylor's death; the progressive Whigs under Seward's guidance were advancing towards Free Soil views, while Fillmore and the Silver Gray Whigs represented that conservative sentiment which stood by Clay and Webster and supported the compromise measures of 1850.

Upon his accession to the presidency, at General Taylor's death, Fillmore appointed Mr. J. Prescott Hall to the office of the District Attorney of New York, and Mr. Hall tendered the place of Assistant to Mr. Evarts, who was not long in office before showing the metal of which he was made. With other administration Whigs and with Democrats, he rallied to the support of the Fugitive Slave Law in 1850. That statute provoked universal hostility throughout the North. It was denounced in the press, upon the stump and in the legislatures, and agitation for its repeal was begun. Counter-demonstrations were organized, both at Boston and New York, and Faneuil Hall and Castle Garden were filled with the advocates of peace and of the enforcement of the inhuman law. Mr. Evarts spoke at the great Castle Garden meeting held October 30, 1850, upon the same platform with Fernando

Wood, O'Connor, Hoffman and Brady. As an oratorical effort his speech won high praise, one auditor, Mr. A. Oakley Hall, describing it as superb, but it created a distrust of the sincerity of his anti-slavery convictions which for a long time could not be overcome. In fact, almost to the end of his life, sarcastic allusion was made to his Castle Garden speech. Perhaps it was the bitterness of finding an unexpected opponent in one whose ancestry and education were supposed to render slavery odious to him which aroused dislike. Evarts, like Webster, was inimical to slavery, but Union was to him more than the anti-slavery cause, and hence he sought to allay sectional irritation by urging obedience to an abhorrent law.

In the perspective of time minor differences of sentiment vanish, and only the large, bold contrasts of opinion remain, but the timidity of Webster and Evarts may have served the cause of freedom as effectively as did the boldness of Chase and Seward. As Mr. Evarts himself said of this epoch, in his address at Auburn in 1888, upon the unveiling of the statue of Seward, one group of Northern opinion (although hostile to slavery) "set itself against any provocation of force, because of its devotion to the preservation of the Union at every cost, while another group regarded the cohesion of our body politic as secure and immovable as the natural cohesion of the solar system." The latter class were naturally willing to throw down the gauntlet to slavery, while the former, although as genuine haters of it, were less outspoken and denunciatory, because of their fear of the dismemberment of the Union.

Whatever popularity the young advocate lost by the Castle Garden speech he more than recovered in a few years by his argument in the Lemmon case. In 1851, while acting as United States Attorney, he conducted a prosecution against the filibusters who had organized the Cleopatra expedition to Cuba. In the discharge of his duty he was not on the popular side, for public sentiment, inspired by Southern leaders who wished to extend the area of slave States, was favorable to the annexation of Cuba. But the young prosecutor was fearless. The law against hostile expeditions to countries with which we are at peace was invoked against the offenders, but the jury refused to convict them.

Even at this early day Evarts had mastered the great principles of international comity which lay behind our statute and the English Foreign Enlistment Act, and in the young official who insisted upon due observance of neutrality by his fellow-citizens, may be seen the nascent advocate before a later international forum. Undoubtedly the study and research of those days were felt in his argument at Geneva.

So successful was Mr. Evarts in his prosecution that within a few years he was retained to defend the Metropolitan Police Act of 1857, under which the whole police system of New York City was centralized and managed from Albany. Here, with Francis B. Cutting, against O'Connor and John D. Edmonds, he succeeded in maintaining the constitutionality of the act.

His next appearance before the Courts of this State in any case of note was in the Lemmon case, and upon this occasion Mr. Evarts justified his ancestry and his anti-slavery principles, and successfully fought for the doctrine that, under the statute of this State, every person formerly held as a slave, who was introduced into this State by the voluntary act or consent of his master, became forthwith free.

Juliet Lemmon and her husband, with their eight

slaves, stopped at New York while in transit from Virginia to Texas, and a writ of habeas corpus was sued out on the ground that the eight colored persons were unlawfully restrained of their liberty. On behalf of the owner of the slaves there appeared Mr. Charles O'Connor, long the distinguished leader of the Bar of New York, who, with his accustomed vigor and ability, argued in favor of property rights, even in human beings. Mr. Evarts supported the writ, and contended that the statutes of this State liberated slaves when they reached New York. "They operate," he said, "as a universal proscription and prohibition of the condition of slavery within the State." Nor could he find any principles of comity which would require our recognition and support of the relation of slave owner and slave between strangers passing through our territory. "A State proscribing the status of slavery in its domestic system, has no apparatus," he argued, "either of law or force, to maintain the relation between strangers." If the owner should die while within the State, would the Surrogate, he asked, administer the slave as assets? Or, if the slave should give birth to an offspring, should we, despite our statutes, have a native-born slave within our borders? At every stage of the proceedings, the Courts sustained Mr. Evarts' argument. In the Court of Appeals, opinions in support of this view were written by Judge Denio, one of the greatest jurists that ever adorned the Bench of the State, and by Judge Wright, and with them concurred Judges Davies, Bacon and Welles. Judge Clerke, following Mr. O'Connor's line of argument, dissented, as did also Judge Comstock and Selden.

This great cause was argued in the spring of 1860, only a few months before the assembling of the Republican National Convention at Chicago. To the Convention, Mr. Evarts, who had been a member of the party since its birth in 1855, came as Chairman of the New York delegation, charged with the mission of presenting the name of Mr. Seward as a candidate for the presidency. Whatever doubt of Evarts' genuine sentiments had been entertained in 1850, had long since been dispelled. He had earnestly supported Fremont in 1856. He had spoken burning words of indignation against Brooks' assault upon Sumner at the Broadway Tabernacle in 1857, and had moved the resolution denouncing the assault as "brutal, murderous and cowardly." This speech is said to have been one of the finest he ever delivered, and he was, therefore, unanimously chosen as the man pre-eminently fit to urge upon the Convention the arguments for Mr. Seward's selection. One sentence of the Tabernacle speech has been preserved. In simple words Evarts had told a story of a slave woman, who, with her children, had escaped from Kentucky, and who, upon her capture had tried to kill her children rather than permit them to be restored to slavery. "If," he said, "it was noble in the stern Cato to taunt the Roman Senate for its long debate whether it would choose slavery or death, then who shall say it was ignoble in the poor slave mother of Kentucky, by a swift decision and flashing execution, to decide that question for her posterity?"

The history of the country has been full of surprises in politics, but there was never a greater surprise to the Republicans of the East than when the Chicago Convention nominated Mr. Lincoln to the presidency. John A. Andrew, of Massachusetts, afterwards the war governor of that commonwealth; the youthful Carl Schurz, then of Wisconsin; Austin Blair, of Michigan, and William M. Evarts, were foremost

in advocating the claims of Mr. Seward. Seward had been present at the birth of the Republican party and had long been one of its most progressive leaders. His championship of the anti-slavery cause began before he entered the United States Senate, and his services in behalf of freedom in the compromise contest of 1850, his opposition to the repeal of the Missouri compromise, and his persistent, openly avowed and powerful hostility to the spread of slavery through our West, seemed, to many, to make him the natural candidate of his party, and this opinion was eloquently urged by Evarts. So confident was Mr. Seward of the nomination, that he retired from the Senate upon the eve of the Convention, with no idea of returning, as he stated to more than one senator. To Senator Wilson he said: "You have done more against my nomination than any other member of the Senate," to which Wilson answered: "Like Mr. Chase, you have by your ability and long devotion to the anti-slavery cause, excited prejudice and awakened conservative fears in the great states of Pennsylvania, Indiana, Illinois, New Jersey and Connecticut, which are to be the battle ground of the contest and whose votes must be secured to give success. * * * I do not think your name will command the necessary strength."

Mr. Evarts' speech in nominating Seward is said to have been a splendid specimen of eloquence. Seldom, if ever, in the whole field of political oratory, says Mr. Blaine, have the speeches of Mr. Evarts at Chicago been equalled. "Even those who most decidedly differed from him followed him from one delegation to another, allured by the charm of his words. He pleaded for the Republic, for the party that could save it, for the great statesman who had founded the party, and knew where and how to lead it. He spoke as one friend for another, and the great career of Mr. Seward was never so illumined as by the brilliant painting of Mr. Evarts." All of Seward's supporters felt confident of his success, and his defeat in the convention was a stunning blow. As soon as he recovered his self-control, Evarts, in a voice of unconcealed emotion, moved in a few dignified words showing his great devotion to Seward, to make Mr. Lincoln's nomination unanimous.

Seward's place in the Senate of the United States having been made vacant by his appointment by Mr. Lincoln to the office of Secretary of State, Horace Greeley, his old-time partner, but latterly his enemy and the chief instrument in compassing his defeat at the Chicago Convention, together with Ira Harris and Mr. Evarts, became candidate for the seat. The contest was finally settled by the accession of the Evarts men to the ranks of Harris's supporters. It is interesting to speculate upon the probable consequences of an election to the Senate at that time upon Evarts' future career. Fitt was bred to the bar, but never practiced, unless for a brief period during the Addington ministry. Webster is the most remarkable illustration in America of the lawyer and statesman in combination, for he was equally great at the bar and in Congress. A seat in the Senate might, for Evarts, have closed the door to great professional advancement. He would probably never have defended Johnson and instead of being his advocate, he might have found himself one of the judges. Nor would he have been selected to present the American case at Geneva. Seward, too bitter as was his defeat, probably attained a higher eminence as Secretary of State than his temperament would have enabled him to reach as President.

Although like many New Yorkers, Evarts had been

impressed with Lincoln's speech at Cooper Union in 1859—a speech which awoke the East to some comprehension of the man—he had been too long a Seward supporter readily to acknowledge Mr. Lincoln's pre-eminent qualifications for the Presidency, but when he came to understand them, as he quickly did, in common with the whole North, he was sincere and earnest in his tribute of admiration. But Lincoln quickly perceived Evarts' unusual equipment for the solution of maritime and international problems; hence Evarts was retained to argue in the Federal courts the right of the government to treat as maritime prizes vessels which had been captured while attempting to disregard the President's proclamation blockading southern ports, which he successfully did, the Court, by a vote of five to four, maintaining the President's right to institute a blockade in case of a rebellion against the government; and when, under the seductive persuasions of Louis Napoleon, England was inclining to support Maximilian's pretensions in Mexico, he was selected by the President for a special mission to London, to urge the English cabinet to abstain from doing so. In this delicate mission his success was complete. He was now a national not to say international, figure. When the assassin's bullet removed our first martyred President, Mr. Johnson, without a shock to the machinery of government, became his successor, as within a few weeks past Mr. Roosevelt had succeeded to the lamented McKinley. The new President, like Mr. Roosevelt, retained his predecessor's cabinet, but unlike Mr. Roosevelt, he had not been the choice of his entire party, but a compromise candidate, and he soon developed characteristics which made him the bitter antagonist of his party; and when his impeachment was resolved upon, it was most natural that Evarts, who was so close to Seward, should be retained as one of his defenders.

It had been the constant practice, since the foundation of the government, to leave the President unfettered in the removal of his constitutional advisers. The idea that the hands of the chief magistrate should be so tied that he should not dismiss members of his cabinet, without the Senate's consent is repugnant to common sense, and could only have been approved in a period of tremendous political excitement. Andrew Johnson, by his opposition to Congress, his vetoes of its several reconstruction measures, his hostility to the recent constitutional amendment and his impolitic addresses, awoke a distrust that could only be allayed by stripping him of ordinary prerogatives of a President. Congress, during his administration, was sovereign; it nearly obliterated the executive branch of the government. Happily for the peace and security of the country, a majority so absolute and so autocratic is not likely to recur. Executive resistance to the congressional program was futile; for, despite Johnson's most lavish use of the veto power, that program was readily carried over his veto. But when he came to employ the vast patronage of his office to compel acquiescence in his policy, Congress enacted the tenure of office law and reversed the precedent of seventy years, by depriving the President, without the consent of the Senate, of the ability to discharge a cabinet officer not in sympathy with his views. That the Senate was wrong, few, I think, will deny. Johnson's resistance was natural. As Mr. Blaine has well said: "For the first time in the history of the United States an officer distasteful to the President and personally distrusted and disliked by him, was forced upon him, as one of his

confidential advisers in the administration of the government."

Johnson removed Stanton, and appointed Grant, Secretary of War. His error lay in treating the removal as a case under the tenure of office act and in submitting the matter to the Senate, for, under the language of the law, the term of the President by whom Stanton had been appointed was Lincoln's, not his own. The Senate refusing to concur in the removal, Stanton was reinstated, whereupon the President, during the recess, appointed General Thomas ad interim Secretary of War, and this action precipitated the impeachment for which the Republican leaders had long been anxious. The House promptly resolved upon impeachment, and appointed Boutwell, Butler, Bingham, Williams, J. F. Wilson, Logan and Stevens, managers. The various counts, with the exception of the last two were little else than different modes of phrasing the charge, that Johnson, in ordering the removal of Stanton, had intentionally violated the tenure of office act. The tenth and eleventh articles, which were vague and declamatory, were supplemental, and are probably to be ascribed to Thaddeus Stevens. The President's counsel was Mr. Stanbery, of Ohio, late his Attorney-General, who had resigned his office to undertake the defence of his chief, Benjamin R. Curtis, who had sat with Chief Justice Taney in the Supreme Court of the Nation, and written the great dissenting opinion in the Dred Scott case, Mr. William S. Groesbeck, Mr. Thomas A. R. Nelson and Mr. Evarts. The defence was opened by Curtis, but the cross examination of witnesses and the arguments upon the evidence were by Evarts, who also made the chief closing address for the defence.

Impeachment trials had been rare in our history, and the Senate, conscious of its party strength, was disposed to conduct the proceedings as a political, not a legal, trial. Fortunately for the country, Chief Justice Chase was the presiding officer; but there were senators who scoffed at the idea that the Chief Justice had any other function than to preside. He was to be merely the organ of the Senate, nothing more.

The record of the trial fills an American with a sense of humiliation, at the extent to which partisan spirit could go. Cardinal Woolsey, as Mr. Evarts said, once stated that in a political case, a jury would, if necessary, bring in a verdict that Abel killed Cain. A verdict of the President's guilt was confidently expected by the managers, who exhibited impatience at the formalities of a trial. They were for a snap judgment; they insisted that the President should have answered the charges upon the return day and were averse to every postponement. Their evident temper was to railroad the President out of office. But the firmness and dignity of the Chief Justice and the high plane upon which the counsel for the President stood, secured the defendant an opportunity to answer and prepare his defence. Mr. Evarts drew the President's answer on Sunday. After the day's work was over, he dined at Sumner's home as Sumner tells us, and when twitted for what he had done, laughingly said: "Is it not written that if thine ass falleth into a pit, it is lawful to pull him out on the Sabbath day?"

Both upon technical grounds and upon grounds of policy and wisdom, the defence was strong. A candid construction of the law must have awakened great doubt of both its applicability and of its constitutionality, and the evil intent so essential to a conviction was palpably lacking. There were five closing speeches for the prosecution and four for the defence. The most important of the last was unquestionably the

address of Mr. Evarts. It was pronounced by Mr. Seward, who was, perhaps, hardly an impartial critic, to be worthy of a place in history with the best forensic efforts in the trial of Warren Hastings. A large part of his opening was spent in showing that the Senate was sitting as a court, that its members were bound by their oath to render an impartial decision, that they were not to obey the dictates of a party, but to determine in fairness whether the charges had been proved. "Let us," he said, "see to it that we play our part as it should be played, and under the motives and for the interests that should control statesmen and judges." * * * "If, indeed, this our closely cinctured liberty, is at last to lose her zone, and her stern monitor, law, debauched and drunken with this new wine of opinion that is crushing daily from ten thousand presses throughout the land, is to withdraw its guardianship, let us be counted with those who, with averted eye and reverent step backward, seek to veil this shameless revelry, and not with those who exult and cheer at its excesses."

Concerning Butler's insistence that the Senate was not a court, he wittily said that Butler knew the only way he could prevent his cause from being turned out of court, was to turn the court out of his cause. And in a more serious vein he asked: "If this is not an altar of justice which we stand about, if we are not all here ministers of justice, to feed its sacred flame, what is the altar and what do we here about it? It is an altar of sacrifice, not of justice, * * * erected to the divinity of party hate and party rage." "To what end," he inquired, "is this prodigious effort to expel from this tribunal all ideas of court and justice? What is it but a bold, reckless, rash and foolish avowal that, if it be a court, there is no cause here, that, upon judicial reason, upon judicial scrutiny, upon judicial weighing and balancing of facts and law, can result in a judgment against the President."

With amplitude of learning and great wealth of diction, he argued that the Tenure of Office Act was unconstitutional; that an unconstitutional law was no law; that, whether the law was constitutional or not, the President had acted in the honest belief that it was invalid; that such was the ground of his veto message; that, if he was wrong in his belief, the ordinary courts of justice furnished a forum for determining the point; and that there was no high crime or misdemeanor committed in what he had done.

Butler and Bingham were in their turn held up to well-deserved ridicule and the rejoinder to Boutwell's "hole in the sky" reserved as a place of punishment for impeached presidents, was a splendid example of forensic satire. With what wit and wisdom did Evarts dispose of the charge that Johnson's speeches were just cause of impeachment. "It is a novelty in this country," he said, "to try anybody for making a speech." Mr. Sumner, in the Senate debates, had characterized Johnson as an "enemy of his country." "We shall," said Evarts, get off pretty easy from a tribunal whose usual latitude of debate permits the legislative branch to call the Executive 'an enemy of his country.'" And, with crushing effect, he quoted a senator who, upon hearing Sumner's scathing denunciation of the President, ironically said that the Senator from Massachusetts would now be competent to sit in case of his impeachment.

Justice to Evarts' argument requires that it be read. While it lacks strict cohesion, a fault partly due, perhaps, to the interruptions necessitated by adjournments, no one can peruse it without acknowledg-

ing that he was a master of forensic oratory, armed with every weapon of speech, even to the sharp and stinging shafts of wit and ridicule; that he was a classical scholar of no mean pretensions, and that he had been a profound student of the works of the great political thinkers of England, as well as of the men who framed our Constitution and enacted our earliest legislation. When his address was completed, it must have been manifest that, before any impartial tribunal, the case against the President was demolished.

Bingham closed for the prosecution, and after much discussion a day was fixed for the final vote. A large number of senators filed opinions. The air was rife with rumors of conviction, and it is said that Benjamin F. Wade, President pro tem. of the Senate, whose right to sit in judgment had been challenged at the outset of the trial, had actually determined upon the composition of his Cabinet, so confident were many senators that Johnson would be deposed. But conviction failed through the unexpected patriotic conduct of several senators, notably Fessenden, Grimes and Trumbull. Sumner, upright and noble-spirited, as he usually was, was never judicial throughout the proceeding. "It is very wrong," he said, in his opinion, "to try the case merely on these impeachment articles," and he concluded an argument of great length and scholarly ability by saying, "If consistent with the rules of the Senate, I should vote guilty of all and infinitely more." It was the prevalence of this partisan hostility and rancor which endangered Johnson. The case against him, viewing it from a legal standpoint, was never more than technical, and was never strong. Really, as Mr. Blaine said, "the President was impeached for one set of misdemeanors and tried for another."

The effect of Mr. Evarts' eloquent pleading is seen in the opinions of men like Fessenden. "It has been intimated by the managers that public opinion calls with a loud voice for the conviction and removal of the President. To this suggestion I reply that he is not now on trial before the people, but before the Senate. * * * The people have not heard the evidence as we have heard it. The responsibility is not upon them, but upon us. They have not taken an oath to do impartial justice, according to the Constitution and the laws. I have taken that oath."

Upon the conclusion of the trial, the President re-nominated Mr. Stanbery for Attorney-General, but as the Senate declined to confirm him, the President tendered the office to Evarts. Evarts acted as Attorney-General from July 15, 1868, until the close of Johnson's term. Almost coincident with Evarts' installment into his new office, Reverdy Johnson of Maryland, received his commission as Minister to St. James. These were the closing months of the Johnson administration, and Seward was urgently desirous, before his retirement from the State Department, to conclude some treaty with Great Britain in which she should acknowledge her liability to compensate the American people for the injuries sustained by the depredations of the Alabama and her sister cruisers. The alacrity with which the British Government had conceded belligerent rights to the Confederacy, the evident sympathy of her Cabinet officers with the South in its rebellious efforts, and the palpable favor shown to Southern ships in her colonial ports, coupled with the injuries inflicted by vessels flying the Confederate flag, built, manned and equipped in England and the colonies, led to a state of public feeling at the close of the rebellion which might readily have kindled into the flames of war. The sincerity of Mr. Seward's

efforts to negotiate a satisfactory treaty no one will question, but the Johnson-Clarendon treaty did not come up to the requirements of our people, and was properly rejected by the Senate. When it was submitted to that body, Mr. Sumner, Chairman of the Committee on Foreign Relations, made a powerful argument against it, in language so bitter and acrimonious as to aggravate rather than conciliate British feeling. "At a great epoch of history," he said, "not less momentous than that of the French Revolution or that of the Reformation, when civilization was fighting a last battle with slavery, England gave her influence, her material resources to the wicked cause, and flung a sword into the scale, with slavery."

When General Grant entered upon his administration, and Mr. Hamilton Fish became Secretary of State, negotiations with the British ministry were resumed, and after months of patient endeavor, the Treaty of Washington was signed, in May, 1871. By its terms, all the claims, generally known as the Alabama claims, were referred to a tribunal of arbitration and all other claims for loss or damage of any kind during the Civil War by subjects of Great Britain or of the United States were to be adjusted by a convention, to meet at Washington.

The most important feature of the treaty was its determination of the rules of law which were to control the arbitrators, in the decision of the cause submitted to them. These rules declared that a neutral government is bound to use "due diligence," "to prevent the fitting out, arming or equipment within its jurisdiction, of any vessel which, it has reason to believe, is intended to cruise or carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted in whole or in part, within such jurisdiction to warlike use.

"Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men. Thirdly, to exercise due diligence in its own ports or waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties; it being a condition of this undertaking, that these obligations should in future be held to be binding internationally between the two countries." These rules, which Great Britain denied to be part of international law at the time, but which, for reasons of comity only, should be assumed to apply to the acts done, were unquestionably in advance of the accepted canons of international law.

The tribunal which was to pass upon the Alabama claims assembled December 15, 1871, at Geneva, Switzerland. The arbitrators were Count Federico Sclopis, named by the King of Italy; Viscount d'Itajuba, named by the Emperor of Brazil; M. Jaques Staemfli, named by the President of Switzerland; Charles Francis Adams, named by the President of the United States; Lord Chief Justice Sir Alexander Cockburn, named by the Queen of Great Britain. The agent on the part of the United States was Mr. J. C. Bancroft Davis; on the part of Great Britain, the Right Honorable Lord Tenderden.

It is asserted in a recent biography of Mr. Seward that there was substantially no difference between the

Johnson-Clarendon Treaty and the Treaty of Washington. This opinion is unquestionably erroneous, for aside from the expressions of regret on the part of Great Britain for the injuries done to our commerce, with which the latter treaty opens, one vital distinction between the two instruments is in respect of the rules which the Treaty of Washington lays down for the guidance of the arbitrators. The adoption of these rules by the two governments was a brilliant vindication of Mr. Seward's and Mr. Adams' policy, for all through the Civil War they urged upon Great Britain that a neutral nation is bound to use all means in its power to prevent its territory from being made the base of military or naval operations by one belligerent against another.

President Grant nominated as Counsel for the United States, Hon. Caleb Cushing, of Massachusetts, well known as a lawyer, who had been Attorney-General under Pierce, and was afterwards to become Minister to Spain; William M. Evarts and Morrison R. Waite. Counsel for the British Government was Sir Roundell Palmer.

An elaborate case was prepared by the American counsel and submitted to the arbitrators. Its publication aroused a tremendous excitement in Great Britain, largely because of its insistence upon damages for the various indirect losses occasioned by the transfer of American vessels to British registry, by the great increase in war risks and enhanced premiums of insurance, by the prolongation of the war and the addition to the cost of the war. The indirect claims, persistence in which at one time threatened the sacrifice of the chief benefits of the treaty, were finally determined by the arbitrators not to be within their jurisdiction. This decision was eminently satisfactory to the United States, for, as Mr. Fish wrote about the same time, it was not to the interest of a country situated as ours, with its large extent of sea coast, small navy, and smaller internal police, to have it established that a nation is liable in damages for the indirect, remote or consequential results of a failure to observe its neutral duties. "This Government," he said, "expects to be in the future, as it has been in the past, a neutral much more of the time than a belligerent."

Concurrently with the submission of the American case which, aside from the record, was an argument of nearly six hundred pages, the British counsel, Sir Roundell Palmer, submitted the British case. Subsequently, and while the whole case was under advisement by the arbitrators, the British counsel applied for a hearing, to which at the urgent solicitation of Sir Alexander Cockburn, the British representative upon the tribunal, the tribunal agreed and it asked for information upon three points: The meaning of the phrase "due diligence," as used in the Treaty of Washington; the effect on British liability of the issuing of confederate commissions to ships built in England and the effect of supplying these ships with coal in British ports. The British counsel had secured all that he sought. Under the plea of an argument upon these various points, he submitted a brief which was practically a new discussion of the entire case, and a further reply to the various arguments of the American Counsel upon all the points before the tribunal. A week's time was allowed the American counsel to reply to Sir Roundell Palmer. The chief reply was made by Mr. Evarts. It was an oral argument and consumed two sessions in its delivery. As a masterly

exposition of all the principles of international law applicable to the case, it has received universal praise. There is, perhaps, no finer exposition extant of the

great rules of international comity regarding the duties of neutrals to belligerent nations.

(To be concluded in the February issue.)

The English Lawyer of To-Day.

By Mitchell D. Follansbee, of the Chicago Bar.

(A paper read before the Law Club of the City of Chicago on April 26, 1901.)

The Earl of Mansfield was the last Chief Justice of England presiding over the courts for the people of this country. In 1789 our writs first bore the teste of John Jay, the Chief Justice of the United States. From that time the American bar began to accumulate traditions of its own, and to forget, little by little, the memories which it had as a heritage in common with the mother country. The hoary traditions, the aristocratic sympathies, the affinity for certain forms of literature, faded away, and in their place came ideas and ideals made by a new race of lawyers, who lacked the pomp and failed in the reverence characterizing their kinsmen of the older bar.

Unless we go back to the days of the warring Plantagenets and note the conditions surrounding the administration of justice in their time, and study the gradual development in our profession since then, it is difficult for us to enter into the spirit of English legal tradition, and to understand the way in which our English cousins regard things judicial. The circuit-riding judge has never meant to them as to us the rough frontiersman, with his saddlebags, jogging along over dusty roads or fording angry streams. To them his going has always been a formal and majestic processional.

When the traveler of two centuries ago, journeying to London upon the king's highway, met the imposing cavalcade of the circuit of that time, he uncapped himself and viewed with deference the long line. According to the historians, the circuit porter rode first, clad in leather jerkin, with huge jack-boots, bearing in his hand an ebony wand, capped with silver. It was his duty to cause all men, of whatsoever estate, whom he met or overtook, to pause and do lowly reverence as the sovereign's representative passed by. Then came the clerks of the judge, well skilled in penmanship, and the curious Norman French and law Latin of the day. Next, the grave, large-bearded clerk of assize, second in importance only to the judge himself. After the clerk came several learned sergeants of the law, in their red robes and hoods. Following all these was the magnate of the procession, the judge, an old man of reverend aspect, riding upon an ancient mule, and clothed in a long, red coat of finest broadcloth, faced with velvet and thickly embroidered with gold upon the sleeves and collar; on his head the solemn, square, black cap, from beneath which showed the border of a white satin coif. Thus arrayed, the majestic administrator of the justice of old England rode, pondering perhaps on the weighty instructions received by him when he last met his sovereign in the Star Chamber and received instructions as to the fate of many a suitor and criminal, notwithstanding the oath taken to administer justice equally, "as well to the rich as to the poor." Next to the judge were the sheriffs of London and Middlesex, who courteously

conducted the judge out of their bailiwick; and, lastly, a long line of serving men, with three or four sumpter horses. At the boundary of each county one set of officers departed and another arrived. At the door of every humble cottage the occupant appeared, and with doffed hat and bended knee beheld the majesty of the law move stately by. At every mansion the owner, anxious to display his loyalty to his sovereign, and with a due regard for his own security, offered the hospitality of his carefully prepared refreshment. Country gentlemen, mounted on splendid horses, from time to time augmented the train. At the town of the assizes the multitude waited expectantly for their coming and for the reading of the royal commission, giving power to the judge to try all "treasons, misprisons of treason, insurrections, rebellions, counterfeittings, clippings and washings, false coinings, murders, felonies, manslaughterers, killings, burglaries, unlawful meetings and conventicles, unlawful uttering of words, unlawful assemblies, misprisons, confederacies, false allegations, trespasses, riots, routs, retentions, escapes, contempts, falsities, negligences, concealments, maintenances, oppositions, deceits," and all other offenses known to the common law. As we read we are reminded of nothing in our experience save perhaps some of the wonderful spectacular productions of Sir Henry Irving. The ceremonies seem as far away from us as the Crusades; and yet the English lawyer liked that sort of thing, and he likes it in a modified form to this day. The halbertmen, the liveries, and all manner of paraphernalia seem to him to make the administration of law pure, which is according to Bentham, quite as important a matter as that the administration of law should in fact be pure.

And so to-day the English judges, though they go by trains, are met at stations by the high sheriff in full court dress, with white wand in hand; and the compliments and platitudes, and the waving black silk gown and the cocked hat on the head of the judge still numb the people of England into a reverence and respect for the administration of justice.

It is related that about twenty years ago the sheriff of one of the university towns, for the sake of economy, neglected the usual custom of providing trumpeters. "Where are your trumpeters, Mr. Sheriff?" demanded the judge, as he stepped from his carriage one assize morning, and very naturally noticed the absence of those officials. "Why, my lord," replied the sheriff, "I considered those officials so very useless that I determined to discontinue them." "Mr. Sheriff," said the judge indignantly, "fifty years ago I was a student of this university near by, working hard in my room, when I heard the trumpeters usher the judges into this town. Their notes sounded so sweetly in my ears that I determined that I would one day be a judge. Sir, I have respected trumpeters ever since, and I am determined not to discontinue them. If two are not here

to-morrow morning I will fine you one hundred pounds." The next morning two trumpeters played the national anthem as the judge rode to the court house.

What manner of man is this English judge who cannot do without trumpeters? How far are his views and his life affected by the traditions of the legal profession of England? What is the course by which the English youth may hope in time to ascend the bench?

The Englishman has grudgingly relinquished some of the intricacies of common-law pleading, though a love for its niceties had descended from father to son. When the possibility of amendments to pleadings was suggested to Baron Parke: "Good heavens!" he exclaimed with horror, "think of the state of the record!" The record is no longer so sacred to the English lawyer; he has modified many ancient rules to meet the demands of justice, and in this way shows that he is practical. Some of you may remember that when Lord Coleridge was here twenty years ago, he spoke of the fact that we had secured a great national park, in which the beauties and glories of nature, and the strange and eccentric forms which natural objects sometimes assume, might be preserved forever, for the instruction and delight of the citizens of this great republic. "Could it not be arranged," he asked, "that with the sanction of a state itself, some one state should be preserved as a kind of pleading park, in which the glories of the negative pregnant, pleas giving express color, *absque hoc*, the replication *de injuria*, rebutter and sur-rebutter, and all the other weird and fanciful creations of the pleader's brain might be preserved for future ages, to gratify the respectful curiosity of our descendants? and he added that the good old English judges, if ever they revisited the glimpses of the moon, might have some place where their weary souls might rest, some place where they might still find the form preferred to the substance, the statement to the thing stated.

But for all the new rules of that certain Hilary term, the Englishman is still moved within his breast at the sight of a king, and he still keeps that almost superstitious regard for the white ermine of the judge.

Bagehot, in writing on the English Constitution, points out that there are two distinct sides to the administration of the British government, one the working side, the other the theatrical side, as exemplified chiefly in the royal family. (Some of the old scenery has recently been renovated on that side of the government.) The distinction is to some extent noticeable in the separation of their legal profession into two bodies, barristers and solicitors. While it cannot be said that the barristers and judges are not a part of the working side of the government, yet they present an exceedingly theatrical aspect. The broad-banded wig and fur-tipped cape and gown of the judge, the clinging silken robes of the king's counsel, the elaborate stuff gowns of the junior counsel, the dignity of the proceedings, the extreme deference paid to the judges, the awful powers seemingly intrusted to the court officials, and the perfect unity of the production are indeed striking. The solicitor, on the other hand, is emphatically on the unassuming and hard-working side of the division indicated. He is the man who hears the troubles of the client and advises him as to his rights and liabilities, and as to the wisdom of entering upon litigation; who manages his family affairs and represents him in various phases of commercial life. But he has no standing in his majesty's courts. When a suit at law has been determined upon, per-

haps after "counsel" has been taken with a barrister, he draws the pleadings, works up the facts of the case and interviews the witnesses. Then he summarizes his knowledge of the case in written form, and delivers his brief to the barrister whom he has selected to conduct the trial of the case. The brief contains, in addition to the statement of facts and the minutes of the witnesses, a copy of all the pleadings. The barrister, acting upon these instructions and minutes, from which he derives his whole acquaintance with the case, presents the case to the court and jury, examines the witnesses and makes the argument.

The legal studies of the young man who would be a barrister are pursued at one of the four Inns of Court, Lincoln's Inn, Gray's Inn, Middle Temple or Inner Temple. These ancient institutions, exercising their functions by no express or implied trust, are almost hallowed to the English mind. Picturesque Gothic piles, rich in old associations, crowded with dearest memories, they breathe an atmosphere of high ideals and noble aims.

But their methods of education are as old as their ivy-covered walls. To alter either would seem sacrilegious. The last one hundred and nine volumes of the *Law Times* contain letters and editorials bemoaning the lack of adequate and scientific education for the English lawyer; for though the governing bodies of the Inns have regulated with purity and fixity of purpose and keen professional zeal entrance to and dismissal from the profession, they have quietly killed all attempts at material reforms. At present there are for each Inn a limited number of "readers," men whose profession is law rather than legal education, whose lectures are not compulsory and are not attended.

Within the last decade Sir Frederick Pollock, who always takes a wide and fair view of such matters, remarked that: "If worked with zeal and intelligence, the Inns of Court may possibly within a few years be not much inferior as a center of legal instruction to an average second-rate American law school;" and Baron Russell of Killowen shortly before his death proposed a combination of the Inns of Court under the style of Inns of Court School of Law, and suggested that such an institution might be modeled after the Harvard Law School. It is most likely that some such reform will before many years disturb the serenity of these old seats of learning.

As a necessary and perfunctory matter, if the young man wishes to wear the wig and gown he must first procure a certificate of character from two barristers, and then enroll himself in one of these Inns of Court. There he must study for at least three years, and if he be a university man—and eight out of every ten barristers are university men—he must eat thirty-six dinners in the course of these three years; and if he be not a university man he must eat double that number, or a total of seventy-two; thus showing that sometimes the lack of a degree is not without its compensation. He has two or three examinations to pass, the questions of which from year to year are said to bear a strong family likeness, and the information necessary to be acquired in order that this may be done is most often gained through the services of a tutor, or crammer, in very few months. In the three years he may not have done a greater amount of work than is necessary to carry a man through one of our night law schools. The last year of the three he is supposed to read in chambers; that means that he pays one hundred guineas to some barrister, and the barrister pays very scant attention to him. But the stu-

dent has the run of his office, and may look over the briefs and watch the procedure. At the end of the three years, if the examinations have been passed he is called before the benchers, or governing body of his Inn, dined and wined and addressed by them, and then, on paying the stamp tax, fifty guineas, into the exchequer of His Majesty King Edward VII., he receives in silence the privilege granted of addressing the British judge and jury.

There, as well as here, many barristers stop with this: and there, more than here, the esteem in which a member of our profession is held is so high that many men are content to enter and thereafter make no effort to go on. Many who are called to the bar have no intention of practicing law, but take the course at the Inns to fit them for diplomatic or other government positions, or merely for the social standing which belonging to the profession bestows upon them.

A solicitor has no such fashionable time of it. His expenses are higher and his work is harder. After a preliminary general examination he is articled, with an eighty pound stamp duty, for a term of five years, to some solicitor, to whom he pays two or three hundred pounds for the privilege of giving his services and learning his profession. For the university man the preliminary examination is omitted, and the term is but three years. There are intermediate examinations in elementary law, and at the end of the period a difficult final examination in all branches of the law. Then he is made a member of the Incorporated Law Society, which regulates all matters connected with the solicitor's education, and he may open up his office.

We are apt to forget that the differences between the functions of the barrister and the solicitor are developments of the last half century. They have existed by law only since the Judicature act of 1871. It would seem to result from the natural tendency in a high state of civilization to specialization. The tendency is precisely the same in this country, but the elasticity of our system is in sharp contrast to the cast iron formation in the English scheme.

The barrister is higher, socially and professionally, than a solicitor. He is an esquire, and the solicitor is a plain gent. The barrister has chambers, the solicitor merely an office. The barrister is retained and the solicitor is employed. The barrister is not responsible for his negligence in the conduct of a suit, but the solicitor is; unless he has taken counsel. The barrister has an honorarium as his fee, the solicitor his charges and costs. The barrister has the insignia of office, and is called "My learned friend;" the solicitor is always "Mr." In short, the barrister is eminent while the solicitor is respectable, and the barrister looks for dignity and fame, the solicitor for wealth. And yet they have to be on good terms, for the superior person of the barrister would starve had he no friends among the solicitors. It is always *infra dig.* for a barrister to have any consultation with a client. He can act only on the initiation of the solicitor who has been intrusted with the client's case, and who has the selection of counsel.

If the young barrister cannot adopt that excellent procedure common to both countries of marrying the daughter of a rich solicitor, he may have a long and dreary time of it. Many a briefless young barrister has been starved out of the profession because of his dependence upon solicitors, and has been obliged to resort to more lucrative if less congenial work than that of the lawyer. It is often expedient for him to tide over the first hard years of his legal career by be-

coming a "devil." A legal evil is a shadow of a barrister. He is permitted to study the briefs of his senior and to perform some small services for him. If the senior is practicing in the equity division, a proportion of the fees go to the devil. But in other divisions his receipts are meager and uncertain, and he is deemed repaid by the experience he gains.

After the barrister has been fifteen years at the bar he may aspire to the honor of "taking silk," which is the professional term for being made king's counsel, exchanging the gown of stuff for the gown of silk. Some judge proposes his name to the Lord High Chancellor, and after a debate similar to that which takes place when a man is admitted to a college fraternity, he may be voted in. If he is, he pays fees amounting to fifty pounds and twelve shillings, and buys a new wig and gown for twenty-five guineas more. He must have a full court livery, with steel buckles on his shoes, and his clerk must have a new silk hat. Thus equipped he waits on the Lord Chancellor in the House of Lords on a given day to be sworn in, and the Lord Chancellor presents him with a crimson leather box, containing the "patent" engrossed in vellum and sealed with the great seal of England, and then shakes hands with him in solemn silence. The new king's counsel thereupon marches around to all the courts, in order of the legal seniority. He interrupts every case, and each presiding judge tells him that he has been selected. He passes through the barrier gate and bows to the counsel, and leaves with the judge a large card, on which is printed his name and the words: "On appointment as one of his Majesty's Counsel," and from that time on the wool-sack of the Lord Chancellor is not beyond his possibilities.

But the honor is not one that all barristers are eager for. Leaving the rank of the junior counsel to become a leader means, to the barrister, leaving forever a large part of the field of action he knows so well. It is now beneath his dignity to attend to any work but the most important; and if a barrister excels in drawing pleadings and writing opinions on evidence rather than in examining witnesses and addressing juries, it may be far better for him to remain a junior all his days.

It is not many decades since Parliament repealed an ancient statute that a lawyer might not be a member of Parliament. Now, of course, it is the command thing to send lawyers to that great body; and it is interesting to note that the lawyer in Parliament remains a lawyer and does not become a politician. The party leaders need him because of his ability to grasp facts rapidly and make logical and convincing speeches. When he once makes a great speech it adds to his power and reputation as a lawyer, and the fact that he is in Parliament is never used as an argument for not employing him. His speeches are apt to be reported verbatim, and are read much more generally than any speeches in this country.

Often parliament is a stepping stone to the bench, the highest goal for the barrister who is full of power and rich in learning. The appointment, which is for life, has no political bias, but is founded entirely upon the fitness of the man; the salary is five thousand pounds a year. The judge is a judge, and not a mere umpire. He directs the course of affairs in cases that are tried before him, without criticism. Long experience has given wisdom, and that fact is appreciated. He rules on questions of evidence, and no exceptions may be taken to his rulings; an appeal is reviewed on the actual occurrences of the trial. His office, however,

imposes many limitations. He can never enter parliament or return to the practice of his profession, or engage in politics. Once a judge always a judge, and an English judge never changes. When he thinks of the declining years of his life he must be content with the prospect of the respect of his countrymen, the love and esteem of his friends, and a pension of thirty-five hundred pounds a year.

There probably never was, nor will there be, a time when the lawyers have settled between themselves all the problems of practice, or are entirely satisfied with the existing state of the law business. In English law journals of to-day are diagrams showing the unfortunate decrease of litigation, and articles complaining that this and that new industrial condition or combination has been responsible for shortening the career of the lawyer. There is at present some movement in favor of a fusion of the two branches of the practice into one. The proponents of this fusion scheme are chiefly briefless barristers, solicitors who desire wider and freer scope, and radicals generally.

The solicitor is unable to act in litigation independently of the barrister, as he cannot himself make even a motion of course. The young barrister chafes at the restrictions placed upon him by the unwritten rules of his profession, and asks in vain for any reason why he may not even draw a will for a relative without the intervention of a solicitor. The client, as he sadly examines a long bill of fees and charges and costs, complains that he must pay for the services of two or more, where one lawyer might more easily have attended to the whole matter, and that the most responsible part of the case was undertaken at second hand by the barrister, who is legally not responsible.

The answer of the members of the bar is in no uncertain tone. They point to the American lawyer, and ask if their British brethren want to be found in the same place. They tell terrible stories of visitors walking straight into the private room of an American lawyer without being announced; of the multiplicity of things which an American lawyer is supposed to know without in fact knowing any of them well; how he may be called upon to advise on a question of commercial law, to conduct a case before a jury, to draw a will, advise a trustee on his own responsibility, arrest a ship in an admiralty suit or prosecute a forger; and then, as the most shocking thing of all, they tell of American counsel who are in the railroad or construction or biscuit business, thus combining the functions of a general manager and a legal adviser. They excuse the condition with us on the ground that it is simply a case of necessity, as a general store in a country village may be pardoned, admitting that the division of labor is a plant of slow growth. But they are sure that the separation of the legal profession into two branches is not a relic of barbarism or a form of trade unionism, but a result of the tendency to division of labor which accompanies a high state of development.

Without question the dual system has many advantages of the highest nature. The members of the bar are hedged away from the commercial world, with its strife and bitterness, and constitute a body most highly respected by the whole English people. Within their ranks is the loftiest standard of professional honor. The subdivision of the bar itself into members of the various Inns of Court produces a fine esprit de corps in each branch and subdivision, not unaccompanied by a certain amount of healthy jealousy and

mutual criticism. Unprofessional conduct, betrayal of trusts, advertising in the newspapers, soliciting business in any one of a dozen ways, are held to be so base that a barrister guilty of such practices, would be utterly ostracized by his profession, if he were not indeed disbarred.

But the English system is particularly strong in producing men who are thoroughly competent in their respective branches of the law. In addition to knowing the law, they possess, owing to their peculiar situation, the advantage of having purely legal questions submitted to them. The facts of a given case come to them all sifted, and they are presented abstract questions of law upon those facts. The individuality of the client, his troubles and his prejudices, do not enter as factors in the problems before the barrister. The glory of the American lawyer, it has been said, is the poverty of himself and the wealth of his client, but no such mixed motives attend his English brother. The result is a development of the highest judicial faculties and the training of men for judges who are unequaled in ability and impartiality. The barrister takes a comparatively non-partisan and scientific view of the case intrusted to him; and while he aims at results he seeks also to realize his cherished ideals of justice.

Whether the best features of the English system can be retained while the disadvantages are removed by the fusion, to some extent at least, of the two branches, is a question that confronts the Englishman to-day. If the barrister who should have been a solicitor, and the solicitor who ought to have been a barrister, could find their proper levels; if the young and briefless barrister could be for a time a legal maid of all work rather than to be starved out of the profession; if the poor man could litigate a meritorious claim—that were a consummation devoutly to be wished by British hearts. The American bar will watch with deep interest the solution of that problem.

The lawyer of our own great city, like every true American, reveres and glories in the highest tribunal of our people, the greatest court in all the world. But when he thinks of our state courts his loyalty cannot, if it would blind him to their shortcomings; and when in the dingy court room he is waiting—and waiting—and waiting for his case to be called, his mind, wearied with the wrangling of attorneys, with the acrimonious and impatient comments of the judge, and the unceasing roar of commerce from the street below, may carry him across the seas, until he stands in Lincoln's Inn Fields, with their grassy slopes and flowers, and feels the inspiration of those ancient cloisters; until he stands within an English court room and views amazed the dignity and power of the proceedings. The day dream is dispelled by rasping tones, "No further call," and his mind returns in quick, unhappy contrast.

In case the apex of a vein entering across the end line of a mining claim passes out across the side line the right to follow the dip of the vein is held, in *Parrot Silver & Co. vs. Heinze* (Mont.) 53 L. R. A. 491, to be limited by a vertical plane passing downward through the point where it leaves the side line, parallel with the end line of the claim. The authorities on the right to follow a vein or lode on its dip beyond the surface lines of the location are collated in a note to this case.

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Gift from Husband to Wife.

The gift of stock to a wife by her husband, made when he was free from debt, is held to be good, in the case of First National Bank of Richmond vs. Holland, 39 Southeastern Reporter, 126, even though the dividends were collected by the husband, and no indorsement or transfer of the stock was made on the books of the corporation.

Liability For Unpaid Stock Subscriptions—Statute of Limitations.

A statute of limitations against the liability of a stockholder to creditors of the corporation on his unpaid stock subscription is held, in Swearingen vs. Sewickley Dairy Co. (Pa.) 53 L. R. A. 471, to begin to run at the time the corporation becomes insolvent as shown by an assignment for the benefit of creditors.

Contract to Marry.

A contract to marry after the divorced wife of the man is dead, there being no impediment to an immediate marriage, is held, in Brown vs. Odill (Tenn.) 52 L. R. A. 660, not to be void for indefiniteness, or as in restraint of marriage, or on the ground of public policy. The authorities on the validity of agreement to marry on death or divorce of present husband or wife are collected in a note to this case.

PARTY WALL AGREEMENTS—HOW FAR COVENANTS RUNNING WITH THE LAND.

In Lincoln v. Burrage (59 N. E. 67), plaintiffs being the owners of two adjoining lots, built on one of them, placing a party wall on the boundary line between the lots and conveyed away the lot on which the building stood. Subsequently they conveyed to one Rose the other lot, which was vacant at the time, except for the half of the party wall. Plaintiffs' deed to Rose provided that by accepting the deed the grantee agreed for himself, his heirs and assigns, to pay to the plaintiffs, or their successors from time to time, the value of so much of the party wall standing on the premises conveyed, including piling and foundations, as he or they might at any time use. Fifteen years later defendant acquired both lots, the Rose lot never having been built on, and tore down the building on the adjoining lot and erected a building covering both lots, using the foundations of the party wall in so doing.

The following is the opinion of Holmes, C. J.: "The acceptance by Rose of the conveyance to him implied a promise by him to pay for the party wall at the time of use. Although not a covenant, under our decisions such a promise might be held, in equity if not at law, to follow the analogy of covenants running with the land in a case to which that analogy would apply. Manufacturing Co. v. Staples, 164 Mass. 319, 41 N. E. 441, 29 L. R. A. 500. But it is most unusual to see a covenant under which the rights are held in gross and the burdens go with the land. We suspect that it would be hard to find

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in the books another case like *Middlefield v. Knitting Co.*, 160 Mass. 267, 272, 35 N. E. 780. Compare, further, *Walsh v. Packard*, 165 Mass. 189, 192, 42 N. E. 577, 40 L. R. A. 321. Leaving cases of landlord and tenant on one side, commonly, where the burden of a covenant goes with land, the covenant either creates a servitude, or a restriction in the nature of a servitude, in favor of a neighboring parcel, or else is in some way incident to and inseparable from such a servitude, or, if attached to the dominant estate, appears to be the quid pro quo for the easement enjoyed. *Savage v. Mason*, 3 Cush. 500; *Richardson v. Tobey*, 121 Mass. 457; *Norcross v. James*, 140 Mass. 188, 191, 2 N. E. 946; *King v. Wight*, 155 Mass. 444, 29 N. E. 644; *Manufacturing Co. v. Staples*, 164 Mass. 319, 41 N. E. 441, 29 L. R. A. 500. In the present case Rose's assumpsit did not purport to be for the benefit of the owner for the time being of the adjoining land. The deed which he accepted showed that his grantors had conveyed that land so that they could not annex a promise to it, and disclosed no interest on their part to secure compensation for use of the party wall to their grantee. On the contrary, the stipulation is in favor of the executors making the conveyance, for the successors in said trust from time to time, showing in the clearest way that the benefit of the promise was intended to be personal, and a postponed compensation to the estate for the use of a wall which the testator had built. This is the construction upon which this action is brought. But if the promise is personal on the side of the benefit, no reason whatever is shown for departing from the tradition of the law in order to make it follow the land with its burden, as we have already said. Indeed, the words of Rose's promise are satisfied if they be read as a personal promise to pay whenever he or his assigns may use the wall. Furthermore, it never is to be forgotten that under all circumstances it is an anomaly

requiring explanation when an active duty is other than personal and is attached to land. See *Norcross v. James*, 140 Mass. 188-190, 2 N. E. 946; *Cole v. Hughes*, 54 N. Y. 444. This difficulty is felt so strongly in England that, when a duty to pay for a party wall is recognized between owners who have not contracted together personally, it seems likely that it will be worked out in terms of implied contract, as it was in *Irving v. Turnbull* (1900), 2 Q. B. 129. See also *Maine v. Cumston*, 98 Mass. 317, 320; *Standish v. Lawrence*, 111 Mass. 111, 114; *Richardson v. Tobey*, 121 Mass. 457, 459, 460.

"The plaintiffs put their argument in the form last suggested. But we do not see any reason why a change in the fiction should enlarge their rights. In fact, the defendant did not contract with the plaintiffs. Any ground upon which she should be held liable in contract would be a fiction. In the present case, where the plaintiffs have no interest in the property used by the defendant, it is no better to say that a contract is implied than to say that it runs with the land. If a covenant by Rose in the form of the stipulation set forth would not have bound his assigns, even under our law, which permits the burden of such covenants to be transferred, and if, therefore, there was no obligation on the defendant arising from Rose's simple contract on the analogy to such a covenant, we conceive that we should be unwarranted in saying that a contract by the defendant was to be implied simply from the fact of that same contract by Rose and the defendant's succession to his title.

"It is not quite clear that there are any further facts which might strengthen the plaintiffs' case on this latter ground of implied contract. It is not quite clear that the defendant actually contracted even with her grantor. It does not appear that her grantor was Rose. If both these facts be assumed to have been in the form most favorable for the plaintiffs, while it may be that slight

circumstances would be laid hold of to avoid circuitry and to establish a privity of contract between the parties to this suit, still it would be difficult to imply a contract in favor of the plaintiffs simply on the ground that a contract was made with somebody else. In the cases which have gone furthest, the first step has been that both lots have been conveyed under an arrangement with contemplated reciprocal benefits and burdens between the two. *Maine v. Cumston*, *Irving v. Turnbull*, *ubi supra*.

"Perhaps a word should be said of a case properly enough not cited at the argument—*Paper Stock Disinfecting Co. v. Boston Disinfecting Co.*, 147 Mass. 318, 17 N. E. 554—where a promise was implied on the part of the assignees of a license under a patent granted by deed poll containing a stipulation for payment. In that case the license was revocable on failure to pay as agreed, and, as a license in its nature is not an estate, but a personal permission, it was quite reasonable to say that the defendant really accepted it from the plaintiff, although through a third person, and by doing so impliedly, but actually, agreed to pay for it according to its terms."

VENDOR'S LIEN ON EXCHANGE OF LANDS.

In *Letcher v. Reese*, decided by the Court of Civil Appeals of Texas, and reported in 60 S. W. 256, a somewhat peculiar contention was raised. It was there held that the exchange of lands under warranty of title, one party has no vendor's lien on the land conveyed by him to satisfy a judgment based on unliquidated damages growing out of fraudulent representations concerning the lands conveyed to him.

Suit was brought by appellant, Letcher, against the appellees, A. A. Reese, J. W. Reese and H. C. Hale, to recover \$2,000 on the covenants of general warranty contained in the respective deeds of conveyance made by the two Reeses to Hale, and by Hale to Scarborough, for lots 3 and 4, in block 48, in the town of Anson, Jones county, Texas, it being alleged that Letcher bought all of Scarborough's title and interest in the lots at execution sale, whereat he paid \$500 for them; and, further, that the title had failed, in that he had been ejected from lot No. 3, and that he had to buy in the outstanding title to lot 4, which neither the Reeses nor Hale ever had. He was ejected, it was alleged, under a judgment rendered the 9th day of August, 1895, in the District Court of Jones county, in favor of J. M. Witt against C. D. L. Newsome, the suit having been filed July 21, 1891, in which suit said Witt alleged in his original petition that he had been damaged in the sum of about \$1,600 by the false and fraudulent oral representations of the said Newsome in the sale of a certain tract of land lying in Jones county, in that Newsome had pointed out to him the west and south lines of said tract, and that they did not run as thus pointed out, whereby he failed to get on the west side of the tract a strip of fine land eighty-five yards wide, worth \$500, which Newsome represented was included in the tract, and on the south the true line extended over some rocky, broken and worthless lands, whereby he was damaged \$561, when Newsome had represented that the line did not extend to said bad lands. It was alleged that Newsome conveyed the land to Witt, with covenants of general warranty, and that the consideration paid by Witt was \$5,700, and that \$2,000 of it was paid by Witt's conveyance, under covenants of general warranty, of the two lots named. It was further alleged that Newsome was insolvent and unable to respond in damages should judgment be obtained against him, and prayer was made that Witt have a lien declared and enforced on the two lots for what-

ever judgment he might obtain. The record shows that on the 23d day of February, 1892, Witt filed an amended petition, but it fails to indicate what allegations it contained, or the purpose of the amendment. Judgment was rendered, as before stated on the 9th day of August, 1895, in favor of Witt for \$1,600, with foreclosure of a vendor's lien on the lots named, and lot No. 3 was sold under order of sale issued thereon, sale made and on the 9th day of November, 1895, Letcher was ejected of possession of lot No. 3 under said order of sale. Before the filing of the aforesaid amended petition of Witt, viz., on the 12th day of February, 1892, Newsome sold and conveyed, with covenants of general warranty, the two lots to the Reeses for an expressed consideration of \$2,000, and from this the title went to Hale, and from Hale to Scarborough, and from Scarborough to Letcher, by constable's deed, as before stated. In this case Letcher insists on his right to recover from the remote warrantors named the full amount of \$2,000, notwithstanding he only paid \$500 for the lots. His suit is based also upon the theory that the Reeses bought from Newsome with notice of the pendency of the suit to foreclose a vendor's lien on the lots, and consequently they, and all holding under them, down to and including himself, are bound by the judgment under which he was ejected. The case was tried by the court without a jury and judgment was rendered for the defendants below, and Letcher has appealed on a statement of facts made out and certified to by the District Judge. The facts are as stated above, except that there was no evidence as to what Letcher paid for the lots at the constable's sale, except the recitals in his deed; nor was it proved what amount the Reeses paid Newsome for the lots, nor what Hale paid the Reeses, nor what Scarborough paid Hale, except by the recitals in the deeds executed by them, respectively, which showed in each case \$2,000.

"The main question in this case," says the Court, "is whether, at the date of Newsome's sale of the lots to the Reeses, the pendency of Witt's suit against Newsome for damages resulting from the false representations stated would be notice to the Reeses of the vendor's lien afterwards decreed and foreclosed in that suit. It has been held in this State that in the exchange of lands under general warranties of title, if the title to one tract or any part of it fails, the grantee may sue the grantor on his covenant of warranty, and that he has a lien in the nature of a vendor's lien on the land he conveyed to his grantor to satisfy his damages. It has also been held that, in cases of fraud entitling the grantee to a rescission of the sale or exchange, equity will, in addition to restoring him to the possession of his lands, give him a lien on the land he received to cover any cash payments made or damages sustained. But we have been unable to find any case, and the learned counsel for appellant have cited none, where any court has ever declared a vendor's lien to exist upon the land received by the grantor to satisfy a judgment based upon a claim for unliquidated damages growing out of false and fraudulent representations concerning the lands conveyed to the grantee, and we believe it would be against public policy to ingraft such a principle upon the jurisprudence of this country. We, therefore, conclude that the claim set up in the petition of Witt for a lien on the lots to secure him in the payment of whatever damages he might recover in that case was without law or equity to sustain it, and the parties purchasing from Newsome were justified in so treating it; that such a claim, in an action for unliquidated damages for false representations, was no notice whatever to the purchasers that any vendor's or other lien existed on the lots named, and would be foreclosed by the judgment in that suit."

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ARKANSAS.

(Organized March 15, 1882.)

President—T. B. Martin, Little Rock.
Secretary—T. F. Longborough, Little Rock.
Treasurer—George E. Dodge, Little Rock.

CALIFORNIA.

(Organized May 18, 1901.)

President—R. E. Hagland, San Francisco.
Secretary—Robert Richards, San Francisco.

COLORADO.

(Organized September 9, 1897.)

President—Platt Rogers, Denver.
Secretary and Treasurer—Lucius W. Hoyt, Denver.

CONNECTICUT.

(Organized June 2, 1875.)

President—Charles E. Perkins, Hartford.
Secretary—Charles M. Jolyan, Hartford.

DELAWARE.

(Organized February 4, 1901.)

President—Benjamin Nields, Wilmington.
Secretary—T. Bayard Heisel, Delaware City.
Treasurer—C. M. Cullen, Georgetown.

DISTRICT OF COLUMBIA.

(Organized June 5, 1874.)

President—Chapin Brown, Washington.
Secretary—Percival M. Brown, Washington.
Treasurer—Charles H. Oragin, Washington.

GEORGIA.

(Organized August 1, 1883.)

President—C. E. Battle, Columbus.
Secretary—Orville A. Park, Macon.
Treasurer—E. D. Harrison, Atlanta.

IDAHO.

(Organized 1908.)

President—James E. Babb, Lewiston.
Secretary—Milton G. Coge, Boise.
Treasurer—Selden B. Kingsbury, Boise.

ILLINOIS.

(Organized January 4, 1877.)

President—John S. Stevens, Peoria.
Secretary and Treasurer—J. H. Matheny, Springfield.

INDIANA.

(Organized June 22, 1896.)

President—Theodore P. Davis, Indianapolis.
Secretary—Merrill Moore, Indianapolis.

INDIAN TERRITORY.

(Organized February 23, 1900.)

President—G. L. Herbert, Ardmore.
Secretary—E. F. Kennedy, South McAlester.
Treasurer—Ed. J. Fannin, South McAlester.

IOWA.

(Organized December 27, 1894.)

President—J. H. McConlogue, Mason City.
Secretary—Samuel S. Wright, Tipton.
Treasurer—George F. Henry, Des Moines.

KANSAS.

(Organized January 3, 1883.)

President—Silas Porter, Kansas City.
Secretary—D. A. Valentine, Topeka.
Treasurer—Howell Jones, Topeka.

KENTUCKY.

President—W. H. Mackey, Covington.
Secretary—Bernard Flexner, Louisville.

LOUISIANA.

(Organized April 20, 1896.)

President—Henry P. Dart, New Orleans.
Secretary—Wm. S. Benedict, New Orleans.

MAINE.

(Organized March 18, 1891.)

President—Wallace H. White, Lewiston.
Secretary and Treasurer—Leslie C. Cornish, Augusta.

MARYLAND.

(Organized August 28, 1896.)

President—John S. Wirt, Cecil.
Secretary—Conway W. Sama, Baltimore.
Treasurer—Frank G. Turner, Baltimore.

MICHIGAN.

(Organized June 1, 1890.)

President—Mark Morris, Grand Rapids.
Secretary—William Landman, Grand Rapids.
Treasurer—Arthur C. Dennison, Grand Rapids.

MINNESOTA.

(Organized October 2, 1883.)

President—H. F. Stevens, St. Paul.
Secretary—Stiles W. Burr, St. Paul.
Treasurer—F. V. Brown, Minneapolis.

MISSISSIPPI.

President—Robert Lowry, Jackson.
Secretary—W. B. Harper, Jackson.
Treasurer—C. M. Williamson.

MISSOURI.

(Organized December 29, 1880)

President—W. P. Teasdale, Kansas City.
Secretary—C. F. Gallenkamp, Union.
Treasurer—Adiel Sherwood, St. Louis.

MONTANA.

(Organized January 8, 1885.)

President—Charles R. Leonard, Butte.
Secretary—Edward C. Russell, Helena.
Treasurer—F. D. Miracle, Helena.

NEBRASKA.

(Organized January 27, 1900.)

President—Judge E. Wakeley, Omaha.
Secretary—Eosone Pound, Lincoln.
Treasurer—S. P. Davidson, Tecumseh.

NEW HAMPSHIRE.

(Organized August 10, 1873.)

President—Albert S. Batchelor, Littleton.
Secretary and Treasurer—Arthur H. Chase, Concord.

NEW JERSEY.

President—David J. Pancoast, Camden.
Secretary—Albert O Wall, Jersey City.
Treasurer—Chas. C. Black, Jersey City.

NEW MEXICO.

(Organized January 19, 1886.)

President—E. A. Flako, Santa Fe.
Secretary—Edward L. Bartlett, Santa Fe.
Treasurer—George W. Kneebel, Santa Fe.

NEW YORK.

(Organized May 3, 1876.)

President—William B. Hornblower, New York.
Secretary—Frederic E. Wadhams, Albany.
Corresponding Secretary—George Lawyer, Albany.
Treasurer—Albert Hessberg, Albany.

NORTH CAROLINA.

(Organized Feb. 10, 1890.)

President—Charles M. Busbee, Raleigh.
Secretary and Treasurer—J. C. Biggs, Durham.

OKLAHOMA.

(Organized July 10, 1890.)

President—John H. Cotteral, Guthrie.
Secretary—Charles D. Woods, Guthrie.
Treasurer—S. S. Lawrence, Guthrie.

OHIO.

(Organized July 8, 1880.)

President—S. S. Wheeler, Lima.
Secretary—Smith W. Bennett, Bucyrus.
Treasurer—L. H. Pike, Toledo.

OREGON.

(Organized October 18, 1890.)

President—C. E. S. Wood, Portland.
Secretary—A. F. Fligel, Portland.
Treasurer—Chas. J. Schnabel, Portland.

PENNSYLVANIA.

(Organized January 16, 1895.)

President—Alexander Simpson, Jr., Philadelphia.
Secretary—William H. Staake, Philadelphia.
Treasurer—William Penn Lloyd, Mechanicsburg.

RHODE ISLAND.

(Organized May 14, 1898.)

President—Francis Colwell, Providence.
Secretary—William A. Morgan, Providence.
Treasurer—William H. Sweetland, Providence.

SOUTH CAROLINA.

(Organized December 11, 1884.)

President—Geo. W. Croft, Aiken.
Secretary—John P. Thomas, Jr., Columbia.
Treasurer—J. O. Marshall, Columbia.

SOUTH DAKOTA.

(Organized December 7, 1897.)

President—Thomas Sterling, Redfield.
Secretary—John H. Voorhees, Sioux Falls.
Treasurer—Ivan W. Goodner, Pierre.

TENNESSEE.

(Organized July, 1882.)

President—J. H. Acklen, Nashville.
Secretary and Treasurer—E. L. Bartels, Memphis.

TEXAS.

(Organized July 15, 1882.)

President—James B. Stubbs, Galveston.
Secretary—Charles S. Morse, Austin.
Treasurer—William D. Williams, Fort Worth.

UTAH.

(Organized January, 1894.)

President—C. S. Varion, Salt Lake.
Secretary—C. S. Kinney, Salt Lake.
Treasurer—George L. Nyo, Salt Lake.

VERMONT.

(Organized November 14, 1878.)

President—John Young, Newport.
Secretary—J. H. Mimms, St. Albans.
Treasurer—Hiram Carleton, Montpelier.

VIRGINIA.

(Organized July 6, 1888.)

President—Thomas C. Elder, Staunton.
Secretary and Treasurer—E. C. Maasia, Richmond.

WASHINGTON.

(Organized January 19, 1888.)

President—Austin Mires, Ellensburg.
Secretary—R. G. Kreider, Olympia.
Treasurer—N. S. Porter, Olympia.

WEST VIRGINIA.

(Organized July 8, 1886.)

President—John Bassel, Clarksburg.
Secretary—John W. Davis, Clarksburg.
Treasurer—W. N. Miller, Parkersburg.

WISCONSIN.

(Organized January 9, 1878.)

President—F. C. Winkler, Milwaukee.
Secretary—Cornelius I. Haring, Milwaukee.
Treasurer—S. C. Hanks, Madison.

COLORADO.

The annual meeting of the Denver Bar Association was held on the evening of November 27, in the county court room at the court house. The meeting was called to order by the retiring president, Hugh Butler. After a brief preliminary report the election of officers commenced.

The nominating committee reported the following: James H. Blood, president; George F. Dunklee, vice-president; J. M. Lomery, secretary and treasurer, and J. M. Essington, sergeant-at-arms. They were declared elected without a contest.

The subject of an annual banquet excited considerable debate, but it was finally decided to hold the banquet on the evening of Feb. 21, 1902.

To the widow of W. W. Cook, who cared for him in his last illness and whose devotion was the subject of much comment, was voted \$25. Cook was one of the oldest members of the Denver bar. He has separated from his wife many years ago, but in his last illness found refuge in her house. She is reported to be in needy circumstances.

A committee was appointed to draw up resolutions on the death of Judge Merrick A. Rogers.

KENTUCKY.

As a result of two meetings a Kentucky State Bar Association has been organized.

The following officers were elected, to serve during the ensuing year: President, W. H. Mackoy, Covington; Vice Presidents, James Campbell, Paducah; J. S. Wortham, Leitchfield; I. W. Twyman, Hodgenville; E. J. McDermott, Louisville; D. L. Thornton, Versailles; James T. Wright, Bowling Green; Thomas T. Wright, Catlettsburg; Secretary, Bernard Flexner, Louisville; Treasurer, T. Kennedy Helm.

MARYLAND.

The annual meeting of the Bar Association of Baltimore City held on December 3, at the Lyceum Parlors was the largest in point of numbers in the history of the organization.

About 120 lawyers were present. The officers elected for the ensuing year included: President, Judge Eben J. D. Cross; vice-presidents, John N. Steele and Randolph Barton; secretary, James W. Bowers, Jr.; treasurer, C. A. E. Spamer; member of the executive committee, Robert H. Smith; members of the committee on admissions, Henry Oliver Thompson, Leigh Bonsal and James S. Calwell.

Judge Cross succeeded Mr. Daniel Thomas as president, and on accepting the honor merely thanked the members of the association as he said there was much more important work ahead in the banquet room.

At the banquet which was presided over by Judge Cross, the following toasts were responded to. "Legal Ethics." Mr. Charles Morris Howard; "Grievances." Mr. E. C. Eichelberger; "How to Improve Our Juries." B. H. Haman.

The business meeting, which preceded the banquet, was of a very interesting character and several very important matters were introduced. The most important of these included a resolution in regard to the retention of Judge Phelps as a member of the Supreme Bench, and placing the custody of the new courthouse under the supervision

of the Supreme Bench, and the removal of deputy clerks in the courts.

Another resolution which received favorable consideration was in relation to the new courthouse, offered by Mr. Joseph C. France. The resolution was in effect, that the charter be amended by an act of the next Legislature, placing the custody of the new courthouse in charge of the Supreme Bench.

Mr. France stated the question was one which needed the attention of the association, as the courthouse was fast becoming in a condition that should be looked after. The resolution will be drafted and will come up before the next meeting of the association for action.

Mr. France's resolution received the unanimous support of the members of the bar.

The committee of amendment of the laws, of which W. Burns Trundle is chairman, offered resolutions looking to the modification of the divorce laws, as well as different forms of practice.

The secretary was requested to have copies of the different proposed amendments printed, and one sent to each member of the association. Calvin Chesnut also offered a resolution regarding special assigned cases taking precedence over the regular assignment which was also referred for further consideration.

The other business consisted of hearing reports from the committee on grievances and other committees, and the election of the following members of the association: Edwin J. Griffin, Hugh L. Norman, J. Kemp; Bartlett, W. W. Parker, William R. Barnes and Albert C. Ritchie.

MASSACHUSETTS.

At the annual meeting of the Bar Association of Middlesex County, held on December 9, the following named officers were elected: President, Samuel K. Hamilton of Wakefield; vice-president, George F. Richardson of Lowell; secretary, Frank M. Forbush of Newton; treasurer, Robert P. Clapp of Lexington; members of council, Edwin B. Hale, Cambridge; Samuel Hoar, Concord; Frederick N. Wier, Lowell; George L. Mayberry, Waltham; and Samuel L. Powers, Newton.

The following committees was appointed by the president: Executive, Samuel K. Hamilton, Robert P. Clapp, Russell Bradford, George F. Richardson and Samuel L. Powers; grievances, Edwin B. Hale, Samuel J. Elder, George L. Mayberry and Gilbert A. A. Pevey; admissions, Samuel Hoar, Marcellus Coggan, George L. Mayberry, James W. Donald and John W. Johnson; amendment to law, Selwyn Z. Bowman, George E. Smith and Frederick N. Wier; library, Charles F. Worcester, John W. Johnson and Walter Adams.

A largely attended meeting of the Lynn Bar Association was held in the Police Court room, on the morning of December 6, President William H. Niles, presiding. The attendance was larger than it has been for many years, and was very gratifying to those interested in the organization. The following officers were elected for a another year: President, William H. Niles; Vice-President, Judge John W. Barry; Secretary, Chas. Leighton; Treasurer, Joseph F. Hannan; Executive committee, Ira B. Keith, John A. O'Keefe, William C. Fabens, Starr Parsons, Henry T. Lummus. It was voted that

the Bar Association hold a banquet, to which guests might be invited, at a time and place to be determined later, a committee being appointed to make arrangements, consisting of Judge John W. Berry, Peter A. Breen, John M. Barry. President Niles was later added to the committee.

MINNESOTA.

The annual meeting of the Hennepin County Bar Association was held on December 6, with President J. O. Pierce in the chair. John Day Smith, of the committee which secured portraits of the late Judges Hooker, Rea and Russell, made a formal presentation of the paintings to the bar association. Messrs. J. H. Steele, C. J. Bartleson, James C. Haynes, J. M. Martin and W. S. Dwinell were delegated to make arrangements for the annual bar association banquet.

NEW JERSEY.

At the meeting of the Law Club of Essex County on December 6, at Oraton Hall, officers were elected for the ensuing year. Frank H. Sommer was elected president; Frederick F. Guild, vice-president; Egbert J. Tamblin, re-elected treasurer, and E. D. Duffield, re-elected secretary. The meeting was presided over by John O. H. Pitney, the outgoing president. The customary report of the treasurer was read and accepted, as was the report of the Library Committee, made by John R. Hardin. The Board of Governors elected were William C. Nichol, Adrian Riker and the retiring officers. A committee of five was appointed to revise the constitution. These members were elected: C. J. Edwin Smith, Thomas J. Butler, Walter P. Lindsley, Francis A. Nott, Jr., Francis Child, Jr., Harry H. Barthman, Frank J. Benson, William A. Lord, J. H. Thayer Martin, Jerome T. Congleton, Maurice J. Thompson.

The State Bar Association held its annual meeting in the General Sessions Court room in Jersey City before the opening of the term of court on December 10, and re-elected all its officers without opposition except in the case of Col. Charles W. Fuller, president, who found a contest on his hands through the persistent friends of Judge Charles Parker. But Col. Fuller won out by a vote of 44 to 32.

The meeting was the largest held at the opening of any term in years, which was due to the fact that the constitution of the association was altered so as to provide for a meeting before the calendar was called. At previous meetings the members would leave immediately after the call.

Col. Fuller presided. Before proceeding with the regular business he called attention to the McKinley Memorial Fund and started the list with a subscription for a substantial amount. Col. Fuller said if the members of the Bar Association meant what they said when the death of President McKinley caused a special meeting of the bar, that now was the time to prove it. Many contributions were added to the list.

Counselor Hartshorne, as chairman of the executive committee to which had been referred the proposed act for the suppression of anarchy, reported that the committee favored the act prepared by Counselor Joseph M. Noonan, with a few modifications.

Col. Fuller said that elections were in order, and Judge Blair, who with

Justice Collins had been sitting in rather Democratic fashion among the members outside of the rail, nominated Col. Fuller.

"Let us leave well enough alone," said Judge Blair. "We know when we have got a good thing, so let us keep it." Judge Blair spoke of the successful work done during the year and said it was entirely due to the vigorous policy pursued by the officers. Counselor Warren Dixon seconded Col. Fuller's nomination and Counselor Hartshorne placed Judge Parker in nomination. This latter was seconded by Counselor George McEwan.

The chair at this time was temporarily occupied by former Judge Hoffman who appointed Counselors George L. Record, C. Hartshorne, Alec Young and Warren Dixon, tellers. The vote was as above announced and Col. Fuller responded his thanks and acceptance. The remaining officers were re-elected without opposition and were: Vice-President, William H. Speer; Howard C. Griffiths, secretary, and Randolph Perkins, treasurer.

On motion it was decided to have the usual winter banquet, and Col. Fuller, after stating that the committee would be announced at an early day, declared the meeting adjourned.

NEW YORK.

Seventy-five lawyers met in Oswego recently and organized the Oswego County Bar Association. Justice M. L. Wright presided and Fred G. Spencer of Fulton was secretary. The following were chosen as incorporators and were given authority to draft a constitution: Senator N. N. Strannahan, Justice John C. Churchill, W. G. Robinson, Giles S. Piper, S. M. Coon, Hon. H. L. Howe, W. H. Kenyon, Francis David, T. W. Skinner.

A resolution congratulating Senator Strannahan on his appointment as Collector of the Port of New York was adopted unanimously. Senator Strannahan said in reply that the appointment came to him unsolicited by himself or friends. He had lately conversed with several who are acquainted with the duties of the great office and he had, he said, some misgivings as to whether he could rise to the occasion of their faithful and efficient performance, but he trusted he would so perform them that no one who had been kind enough to congratulate him would ever have cause for regret.

PENNSYLVANIA.

Officers were elected at the annual meeting of the Pittsburg Law Association as follows: Chancellor, Samuel Dickson; Vice-Chancellor, David W. Sellers; Secretary, William C. Ferguson; Treasurer, John Houston Merrill; Library Committee, H. La Barre Jayne, W. W. Smithers, Henry Budd, Norris S. Barratt, for three years, and Russell Duane for one year; Committee of Censors, to serve three years, Charles E. Ingersoll, John R. Read and M. Hampton Todd.

The annual meeting of the York County Bar association was held on December 3. The following officers were elected for the ensuing year: President, H. C. Niles; Vice-Presidents, J. E. Strawbridge and N. Sargent Ross; Secretary, John L. Rouse; Treasurer, William A. Miller. The association decided to hold its annual banquet and a committee will be appointed in the near future to arrange the details.

The following officers of the Tioga County Bar Association were elected for the coming year on the evening of December 2. President, S. F. Channell; Vice President, Judge Niles; Secretary, R. K. Young; Treasurer, Walter Sherwood.

A Library Committee, consisting of H. F. Marsh, G. W. Merrick, Walter Sherwood, Hon. David Cameron and H. B. Leach, was appointed to receive and devote to the purchase of books for the law library, in accordance with the Act of Legislature of May 11, 1901, half the fines to which the county is entitled.

A committee was appointed to confer with Judge Niles and report amendments to the court rules, in conformity with recent legislation. The members are: Hon. David Cameron, J. W. Mather, and F. H. Rockwell, H. F. Marsh, A. B. Dunsmore, A. J. Shattuck, and E. B. Young, were appointed an Auditing Committee. Arthur L. Bailey, was admitted to membership in the association.

The annual meeting of the Lancaster Bar Association was held on December 9.

In the absence of President H. M. North A. F. Hostetter was called to the chair on motion of John E. Malone. A. E. Burkholder, I. R. Herr and E. H. Frantz were elected to membership.

The old officers were re-elected, Simon P. Eby being chosen vice president to fill a vacancy. The other officers are as follows: President, H. M. North; Secretary, John W. Appel; Treasurer, D. McMullen; Board of Censors, A. F. Hostetter, W. H. Keller, W. D. Weaver, W. N. Appel, John E. Malone.

The chairman then stated on behalf of the Board of Censors that certain matters submitted to them are under consideration, but in order to give the affair as full a hearing as possible they have not been able to conclude their investigation. [One of the matters under investigation by the censors is the T. J. Davis case, recently referred to in an opinion by Judge Landis, and who directed the clerk of the court to bring the matter before them.]

On motion of W. U. Hensel it was decided to hold a special meeting on January 1, after the meeting of the Law Library Association.

RHODE ISLAND.

The Rhode Island Bar Association at its meeting on December 2, elected the following officers for the coming year:

President, Francis Colwell; 1st Vice-President, Stephen A. Cooke; 2d Vice-President, Augustus S. Miller; Secretary, William A. Morgan; Treasurer, William H. Sweetland; Executive Committee, Robert W. Burbank, Nathan B. Lewis, Herbert A. Rice, John Doran, Lefferts S. Hoffman.

An address was delivered by Judge Baldwin who spoke on the functions of the Supreme Court, and who said in part:

"It is one of the good things of this great country of ours that we have no bars up between States. Especially is this true of Connecticut and Rhode Island, both daughters of Massachusetts, both molded under republican charters and both so attached to their charters that they retained them in preference to any constitutions they could frame previous to the last century. In each the charter made the

Legislature almost supreme. I have had some personal experience of the courtesy of this bar and the dignity of this bench.

"There are three things that are characteristic of American procedure, our jury trial, our rules of evidence and our court's power of disregarding judicial legislation. Out of these three have grown our Supreme Courts. The Court must itself be one. There cannot be two supreme courts. That tribunal must be exclusive. Its great office is to put an end to human controversies. 'Law,' said Aaron Burr, 'is whatever is confidently asserted in court and capably maintained.' But we judges have the advantage of you in this—that we can content ourselves with confident assertion.

"It is one of the blessings of a small State that causes are so few they can be examined carefully. A court of last resort can try two, three or four cases, as the case may be, in a day, and when the court is not in session the Judges may not examine and write opinions on three cases a week each. That allows full consideration in a State like Rhode Island of every cause which may be brought to it.

"In 1784 the State of Connecticut organized what we call the Supreme Court of Errors. You have always preferred, and I am not sure but wisely, to invest your Supreme Court with some original jurisdiction. During the last few years I understand you have allotted to one of your judges the right to select those who may sit with him to try cases. We don't know much in Connecticut about the divisions. We have thought there were some advantages in having always the same Judges sitting in the court of last resort. That secures unity of judicial views. This fixedness in judicial present is the fruit of the maintenance of a court of last resort composed from year to year of the same men. I believe other things being equal, that court is best which is furthest removed from the possibility of political change. A long term is a safeguard to justice, because that Judge who owes no man his place is most apt to let justice and justice alone guide all his decisions.

"We shall continue to watch your judicial experiment of 1893 with interest. Whether a good thing or not, such a State as Rhode Island is strong enough to stand the experiment without any fear of disaster."

President Colwell called on Mr. Morse, who spoke briefly. Following his remarks the presiding officer introduced the discussion on the proposed amendment to the Constitution. He intimated that it was not desired to do anything further than to have fair consideration of the question of whether the act of 1893 was the most desirable system of judiciary.

James Tillinghast said he presumed the discussion was merely on the question of removing from the Constitution the two unprecedented clauses known as the "chancery clause" and the "charging the jury clause." He called the attention of the association to the proposed resolution.

Mr. Tillinghast reviewed the origin of the two clauses to which he had referred, outlining the organization of the judiciary before the adoption of the Constitution. "There was a Supreme Court consisting of Chief Justice and two Judges and five Courts of Common Pleas, one for each county; no judge

of which was necessarily a lawyer. It would not have done to trust those men with chancery powers, as the right to charge the jury. In June, 1843, they cut down these judges from five to two, and put with each court a Supreme Court Judge, who must always sit with the other justices and must always charge the jury. This method worked satisfactorily until in 1893, came the reorganization of the court. Since that time there has been agitation for a change and better organization of the court, and the crucial questions are still the chancery powers, and the right to charge the jury. There was introduced into the Assembly with the understanding that it would pass the resolution which was before the association. This was altered without the sanction of the association."

Mr. Tillinghast said there was a doubt whether the General Assembly had under the Constitution the right to divide the Courts as it did in 1893, but said the question was too large to be discussed off hand by the association at the present time. He urged an assumption that it is constitutional, that if it were decided otherwise all that the Court had done since 1893 would be null and void. He closed with a recommendation to postpone indefinitely the discussion of the larger question.

Stephen O. Edwards moved that further consideration be postponed to a special meeting of the association, to be called by the President, for some time during the present month. The motion was amended to the effect that the meeting be held the second Saturday in December at 2 o'clock in the afternoon at the Court House, and as thus amended was unanimously carried.

On motion of Walter H. Barney a resolution was passed that the President ask the members of the bench and bar to join in taking suitable action on the recent death of ex-Chief Justice Durfee. The meeting then adjourned.

VIRGINIA.

A meeting of the bar of the City of Danville and the adjacent counties, was recently held in the United States Court room in that city, at which resolutions were passed commemorative of the life and work of the late Judge John Paul. The committee preparing the same consisted of: George C. Cabell, J. W. Hartwell, R. W. Peatross, N. H. Hairston and T. M. Anderson.

WISCONSIN.

At a meeting of the Winnebago county bar association held on December 3, the past officers, Judge George Gary, president, and Judge A. H. Goss secretary tendered their resignations and their successors were elected as follows: President, Charles Barber; Secretary, Henry M. Bacon. Besides the election of officers several resolutions were presented and referred to the executive board, which has not yet been appointed. These were upon the matter of libraries, and cataloguing the same, the object being to furnish a list of all books in all the offices of attorneys to avoid the necessity of the others' securing duplicates unless they so desire. The sense of the bar was that it will now be possible for the members to have in common the use of a thoroughly equipped library and to have at hand all reports and text books necessary.

THE BAR AT LARGE.

Personal and Partnership Notes.

(Attorneys are requested to send notices of change of address, organization and dissolution of partnership, etc., for insertion. No charge is made.—Ed.)

New England States.

CONNECTICUT.

Hartford—James H. Hamilton of Simsbury, who studied law with the old firm of Sperry, McLean & Brainard, and has been with Sperry & McLean during the past year, has occupied an office in the Ballestein building.

Middletown—W. J. de Mauriac has removed his office from the Y. M. C. A. building to his house, 182 Washington street.

MAINE.

Blaine—The firm of Safford & Briggs has been dissolved. Charles G. Briggs, the junior member goes to Caribou, having purchased the practice of B. L. Fletcher.

Portland.—Frank H. Swan, has opened an office in the Casco Bank block, Portland and is to have an office at his home, 15 Oak street, Westbrook, where he can be found evenings.

Rumford Falls.—Matthieu & Stevenson have moved into their new office, in the Bank block.

MASSACHUSETTS.

Boston.—E. O. Childs, Jr., has opened an office in Barristers Hall, Pemberton square.

Boston.—Judge Preble has removed from the Sears Building to his new offices in Barristers Hall, Pemberton square.

Boston.—Andrew A. Highlands, formerly of Fall River has formed a partnership with C. W. Ward, with offices at 701 Barristers Hall.

Haverhill.—R. D. Trask has removed his office from No. 6 to No. 7 Emerson street.

Northboro.—John T. Tighe of Marlboro, has opened a branch office here, in the Arcade building.

Quincy.—John D. Mackay a native of Nova Scotia, has opened an office in the old Court Room building.

Taunton.—Harold F. Hathaway has opened an office in Rand block.

NEW HAMPSHIRE.

Berlin.—Edmund Sullivan formerly of Lancaster has moved his office to Berlin.

Concord.—Cook & Hood have removed to the State block.

RHODE ISLAND.

Providence.—Herbert A. Blake has begun practice in Providence, being associated with Robert W. Burbank, Banigan building.

Providence.—William C. Baker and Benjamin Baker, have opened an office on the third floor of the Vaughan building, at 17 Custom House street.

VERMONT.

Burlington.—C. J. Ferguson and G. E. Stratton, have removed their offices from the Howard Bank building, to the Englesby building, formerly occupied by the Daily News.

Burlington.—Henry Ballard has removed his law office from the Hayward block to the rooms in the exchange

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block formerly occupied by J. A. Brown and W. H. Colligon.

Randolph.—Sherman R. Moulton has opened an office in Randolph.

St. Johnsbury.—Guy W. Hill has rented the offices in Merchants Bank block recently occupied by the Northern Lumber Co.

Middle Atlantic States.

DELAWARE.

Wilmington.—Willard Saulsbury, James W. Ponder and Charles M. Curtis have decided to form a partnership under the name of Saulsbury, Ponder & Curtis. The new partnership will go into effect on January 1, and will have offices in the building at No. 909 Market street, which at present is occupied by Messrs. Saulsbury and Ponder.

NEW JERSEY.

Hoboken.—The dissolution of the law firm of Marnell & Fallon, has been effected and Mr. Fallon moved from the firm's office in the Second National Bank. Mr. Marnell, retains the old offices, while Mr. Fallon has gone to the Hudson Trust building.

Trenton.—Judge William A. Gummere, who attracted national attention by setting aside a verdict for \$5,000 against the Newark street railroad for the death of a boy, declaring that "children are an expense, as a rule, and not a pecuniary benefit to their parents," and adding that \$1 was all the child's life was worth, has become Chief Judge of the Supreme Court of New Jersey, succeeding the venerable David A. Depue.

NEW YORK.

Buffalo—C. F. Horton, who has been managing clerk for Bartlett & Baker, the attorneys in Prudential Building, has been taken into the firm which will now be known as Bartlett, Baker & Horton.

Buffalo.—The firm of Lawless & Behrends has been dissolved. James J. Lawless will continue the business of the firm at Nos. 21-23 Erie County Savings Bank building.

Hammondsport.—Burton W. Sly formerly of Woodhull, has opened an office here.

Hoosick Falls.—James L. Scott and Ezra Tiffany have formed a co-partnership.

Ilion.—William P. Wilfert has opened an office in the Giblin block.

Oneonta.—Henry Shove of Mt. Vision, has leased the offices in the First National bank building in Oneonta, at the rear of the suite of W. H. Johnson, and will at once open an office therein.

Oneida.—Wilfred A. Leete, has just installed in his new office in the Hickox block the extensive law library of the late Hon. Augustus G. S. Alts, of Syracuse. The library numbers about 1,200 volumes. Mr. Leete's purchase brings to this city one of the most complete law libraries in Madison Co.

Oswego.—F. T. Cahill, for several years past associated with Hon. P. W. Cullinan, has leased offices in the Arcade block.

Penn Yan.—The firm of Hudson & Marsh has been dissolved.

Syracuse.—Frank C. Sargent, and Donald F. McLennan have formed a partnership. They have offices in the Kirk building, where Mr. Sargent is now located.

Syracuse.—Richard B. Smith and Raymond L. Skinner, have formed a partnership under the name of Smith & Skinner with offices in the Kirk building.

Utica.—W. J. B. Williams will hereafter have an office at 32 Arcade building.

Utica.—George M. Speaker has opened an office in the Arcade building.

PENNSYLVANIA.

Carbondale.—The formation of a partnership by two of Carbondale's prominent and successful attorneys, Assistant District Attorney Louis Gramer and Charles Horton, has been announced.

The new firm will be known as Gramer and Horton. The offices will be in the Miner and Mechanics' building, in the front suite.

Dillsburg.—James J. Logan has opened an office in Dillsburg.

Harrisburg.—District Attorney Albert Millar, has removed his offices from the court house, to rooms 1, 2, 3 and 4, in Weakley building, No. 7 North Market square.

Philadelphia.—Charles L. Taylor has opened an office at 707 Walnut street.

Pittsburg.—John Braden McAdoo has opened offices at No. 108 Diamond street, Pittsburg, with the firm of Brown & Stewart.

Southern States.

DISTRICT OF COLUMBIA.

Washington.—Barry Mohun announces that he has resigned his position in the office of Messrs. Oondert Brothers in New York City and that he is now located in the Washington office of that firm, where he has taken up general practice. Special attention will be given to copyright litigation, to the procuring of copyrights and to all matters pertaining thereto.

GEORGIA.

Atlanta.—James L. Anderson formerly of Macon, has formed a partnership in Atlanta with his brother Captain Clifford L. Anderson. The firm

will be Anderson, Anderson & Thomas, Mr. Lewis W. Thomas will be associated with them. Captain Clifford Anderson was the partner of the late Porter King.

Savannah.—Walter G. Charlton and Richard M. Charlton have removed their office to the fourth floor of the Sorrel building, on Bay and Bull streets.

KENTUCKY.

Covington.—Seward A. Miller has opened an office at 33 and 35 Mann building.

Louisville.—John C. Strother, Rowan Hardin and Shelby Strother have formed a partnership. The firm name is Strother, Hardin & Strother.

LOUISIANA.

New Orleans.—L. A. Hubert and Richard Peete, have formed a partnership under the firm name of Huber & Peete, with offices 137 Carondelet street.

MARYLAND.

Easton.—J. Fletcher Clark formerly of Dover, (Del.) has opened an office in Easton.

TENNESSEE.

Chattanooga.—T. R. Hudson, formerly of the firm of Robinson & Hudson, of Sparta, has moved to Chattanooga and will practice here.

Memphis.—Thomas M. Scruggs has removed his office to 68 East Court street.

TEXAS.

Bryan.—E. A. Berry has become associated with Doremus & Butler. The name of the new firm will be Doremus, Butler & Berry.

Dallas.—Judge L. C. Alexander, formerly of Waco, has moved to Dallas, and formed a partnership with Lewis Wood, under the firm style of Alexander & Wood, with offices in the Linz building.

VIRGINIA.

Manassas.—John H. Nelson has opened an office in the building occupied by Cole & Meredith.

Richmond.—A. B. Guigon has removed his office from the Times building into suite 16, Merchants' Bank building; new phone No. 990.

WEST VIRGINIA.

New Martinsville.—Two new firms are preparing to enter business here. C. W. Cramer, of Piedmont, and Lew Yeager, have formed a partnership, and David Reay, now assistant clerk of the Supreme Court of Appeals has formed a partnership with Judge W. Scott Meredith, of Fairmont.

Parkersburg.—It has been announced to-day that the law partnership of Hiteshew & Schade has been dissolved. Mr. Hiteshew will continue in the offices which were occupied by the firm and Mr. Schade will have a new office in the Citizens Bank building.

Wheeling.—W. P. Robinson has taken his brother, Alan H. Robinson, into partnership, and hereafter their firm will be known as Robinson & Robinson.

Central States.

ILLINOIS.

Beardstown.—R. I. Woods has opened an office in the room above Diehl's store.

Centralia.—Bruno H. Diehl has opened an office in the Merchants' Bank building on Broadway.

Chicago.—H. Stuart Derby and Daniel M. Rothschild have formed a co-partnership, with offices at 408-9 Fort Dearborn building, 134 Monroe street, under the firm name of Derby & Rothchild. Telephone Main 1555.

Chicago.—The following lawyers have secured quarters in the new Tribune building: Kraus, Alschuler & Holden, Rummler & Rummler, B. J. Samuels, Israel Shrimski, M. H. Guerin, Ferdinand Goss, Thomas E. Rooney.

Chicago.—The firm of Winston & Meagher has been dissolved by mutual consent, James F. Meagher withdrawing. The offices in the Monadnock building will be occupied by the firm of Winston, Babcock, Strawn & Shaw, of which the members are F. S. Winston, F. R. Babcock, S. H. Strawn and R. M. Shaw. The firm of Winston & Meagher has been in existence about fifteen years.

Chicago.—Jens L. Christensen has moved his office from 164 Dearborn street to room 61 Merchants' building. Tel. Main 789.

Chicago.—McNulta & Hood have removed their offices from 164 Dearborn street to 175 Dearborn street.

Chicago.—Seymour N. Cohen has opened an office in the Unity building, Suites 305-310. Telephone, Central 2229.

Edwardsville.—The offices of Springer & Buckley have been removed from the Begemann building on the east side of court square one door north, and are now located in the corner building. They have the front suite of rooms, being those vacated by Judge B. R. Burroughs.

Galesburg.—Williams, Lawrence & Welsh have removed into their new offices above the First National Bank building.

Joliet.—P. C. Haley, Representative W. A. Bowles and Ed. R. Nadoffer have opened a suite of offices on the second floor of the Cutting building.

Kewanee.—William M. Scanlon formerly of Peru, has opened an office in the Fischer building, at the corner of Third and Tremont streets.

Macon.—A new partnership has been formed. The members are A. G. Webber and Ben. F. Tait and the firm name will be Webber & Tait. They will have their offices, for the present at least in the rooms occupied by Mr. Webber, 305 and 307 Millikin building.

Moline.—W. C. Allen has moved his office from Sixteenth street to McKinnie block, where he occupies rooms 13 and 14.

Moline.—John H. Hauberg is a new attorney in Moline. His office is in the McKinnie block.

Peoria.—Harry S. Miller has removed to rooms 511-512 Niagara building. Telephone Main 1004.

INDIANA.

Bloomfield.—The firm of Van Buskirk and Slinkard has been dissolved, Thomas Van Buskirk retiring. Theodore Slinkard has purchased Mr. Van Buskirk's interest, and the firm will be continued as Slinkard & Slinkard. Mr. Van Buskirk has removed to Evansville and become associated with Lane B. Osborn.

Orleans.—The firm of Wright and Lingle has been dissolved by mutual consent.

Terre Haute.—F. F. James formerly of Newport, has opened an office here, in partnership with W. T. Gleason.

Terre Haute.—Daniel V. Miller, Robert Harrold and Edward Sparks have formed a partnership under the name of Miller, Harold and Sparks. The firm will have its offices in the old Lanton building on Ohio street near Sixth. Mr. Miller was until recently a member of the firm of Crane, Miller & Miller and Messrs. Harold and Sparks had but recently formed a partnership. Mr. Sparks moved to Terre Haute a short time ago from Clinton.

MICHIGAN.

Bay City.—A partnership under the title of Loranger & Flynn has been effected by U. R. Loranger and Stephen P. Flynn. The new firm will occupy offices in the Crapo block, where Mr. Loranger is at present located.

Detroit.—Announcement has been made of the organization of a new firm here. Prosecuting Attorney Kleber P. Rockwell and Secretary of the State Pardon Board, Henry M. Zimmerman, will locate in offices with Congressman Samuel W. Smith.

Flint.—The firm of McFarland, Williams & Wilson, has been dissolved. Mr. Williams retires from the firm and in the future will have his office with D. D. Aitken.

MISSOURI.

Chillicothe.—J. E. Watkins has moved his offices to rooms 20 and 21 Wallbrunn building.

Higginsville.—J. W. Whitsett has moved his office to rooms over Petering's grocery store.

Richmond.—The firm of Farris & Son has been dissolved by mutual consent, the senior member continuing in charge of the general practice and business.

OHIO.

Canton.—J. B. Snyder and John W. Crane have formed a co-partnership.

Lima.—J. C. Radenour has been admitted to practice in the United States Court.

Lisbon.—The firm of Potts & Moore has dissolved. Judge Moore will open offices in the new Buckeye State building.

Zanesville.—Three new attorneys have located in this city in the last few weeks. They are B. F. Curran of Corning who has located in the Zanesville Bank building, Charles Ribble of Cedar Run in the Andrews building and A. E. Wright of Caldwell in the O'Neal building.

WISCONSIN.

Marinette.—John G. Erdlitz, a brother of Mayor Erdlitz, who has made a great record as city attorney of Whiting, Ind., and also as prosecuting attorney, has located in Marinette and opened an office.

Tomah.—William B. Naylor, Jr., and W. R. McCaul, have formed a copartnership under the firm name of Naylor & McCaul. Mr. McCaul is at present the city attorney. Mr. Naylor was city attorney for two years.

Western States.

COLORADO.

Colorado Springs.—The firm of McKesson & Little has been formed to succeed that of Orr & McKesson on account of the retirement of James A. Orr and O. P. Grimes from the old firm. The new partners are O. L. McKesson, J. E. Little and C. Leon McKesson.

Judge Orr retired from the old firm to go on the bench of the county court and Mr. Grimes will be the new undersheriff, under Sheriff-elect Gilbert.

Colorado Springs.—Richard Lea Kennedy has removed from the Hagerman building into room 44 Bank building.

Colorado Springs.—The firm of Hall, Ebbitt & Thayer has leased the south half of the fourth floor of Stratton's Mining Exchange building and will take possession of the suite on January 1, when the other tenants who have secured leases on the building will also move into it.

Denver.—Alfred Muller announces that he has associated with him, M. Summerfield, lately of the Lawrence, Kan., Bar, and Professor in the Law School of the University of Kansas. The firm, under the name of Muller & Summerfield, will continue in the present offices at 522½-526 Ernest & Cranmer building.

KANSAS.

Topeka.—E. D. McKeever, of Topeka, has been appointed by Attorney-General Knox to be assistant United States attorney for the district of Kansas, vice H. J. Bone, whose term expired. Mr. McKeever is one of the young attorneys of Kansas, and was a member of the legislature that elected J. R. Burton United States senator.

Topeka.—The firm of Harvey & Harvey has been dissolved. Each partner will practice separately.

OKLAHOMA.

Cleo.—James H. Antrobus, formerly of Hennessey, has located in Cleo.

Lawton.—Newton W. Crose has opened an office in Lawton.

Oklahoma City.—W. C. Hughes has associated himself with I. M. Putnam. They will have their offices in the Overholser building, opposite the post-office.

SOUTH DAKOTA.

Redfield.—R. T. Bull and his partner, Mr. Gislason have made arrangements to open an office in Redfield. They have engaged the offices at present occupied by Dr. J. K. Kutnewsky.

Yankton.—A new firm has been established by the consolidation of the legal business of Senator Gamble, Hon. Robert Tripp and Maj. John Holman, who will practice under the firm name of Gamble, Tripp & Holman.

WASHINGTON.

Seattle.—William L. Waters has opened an office in Seattle.

Seattle.—Clise & King have removed their offices from the Pacific block to rooms 308 to 306 in the new Globe building, corner of First avenue and Madison street.

THE NEW YORK CITY BAR.

Matters of Interest to Attorneys Practicing Within the Limits of Greater New York.

(New York city attorneys are requested to send notices of change of address, organization and dissolution of partnerships, etc., for insertion. No charge is made.—Ed.)

George W. Schurman, Chief of Staff.

It was announced that Judge Jerome has named as his chief of staff when he becomes the Prosecutor for the county, George W. Schurman.

Born on Prince Edward's Island, in 1867, Mr. Schurman went to Cornell University, and was graduated in 1890. A year later he was admitted to the bar, and, coming to this city, formed a connection with the law firm of Carter, Hughes & Dwight, practicing in the civil courts.

He is a member of the Bar Association, and the Holland, University and Cornell Clubs, and the Englewood Golf Club.

Mr. Philbin, knowing of the appointment, made Mr. Schurman his chief of staff, that Mr. Le Barbier might familiarize him with his duties.

John E. Ellison Disbarred.

The Appellate Division of the Supreme Court has handed down a decision granting a motion to disbar John E. Ellison, whose address was 7 East One Hundred and Nineteenth street. He was charged with "fraud, deceit, and malpractice, and gross unprofessional conduct." The charges grew out of his conduct as executor of the will of Mrs. Sarah Embury, who died April 8, 1887, leaving about \$80,000. As trustee under the will for the benefit of Arthur D. Embury and also Alphonse L. Embury, now deceased, he received \$34,850. He was charged with not properly accounting as executor and trustee and he was removed.

Evarts, Choate & Beaman Not Dissolved.

A rumor that the firm of Evarts, Choate & Beaman had dissolved was denied with vigor recently by J. Evarts Tracy a member. The rumor came from Washington.

"There is no truth whatever in the report that the firm has dissolved," said Mr. Tracy, "or that any change in the firm name has been made."

When asked if any change was contemplated, Mr. Tracy replied: "That does not seem to me a question in which the public has any concern."

The partners surviving William M. Evarts and Charles C. Beaman are Joseph H. Choate, J. Evarts Tracy, Prescott Hall Butler and Allen W. Evarts.

John C. Clark Appointed Legal Adviser.

John C. Clark was appointed legal adviser to Mayor elect Low on December 6. Corporation Counsel-to-be Rives named Mr. Clark as an assistant and had him assigned to the Mayor's office.

"I have known Mr. Clark for twelve or thirteen years," said Mr. Rives. "He was for two years my managing clerk. He left me to establish a practice of his own. During the last campaign Mr. Clark was Mr. Low's campaign secretary."

Mr. Clark is a member of the New York Bar Association and is a director

in the Young Men's Christian Association. He is an Independent Democrat and has fought both Platt and Croker.

Bar Association to Meet in Secret.

Meetings of the Bar Association hereafter will be secret. It has been announced that in future only members will be admitted, and whatever is deemed proper to be made public will be given out by the secretary of the association.

At the annual meeting on December 10 the report of the sub-committee on the Penal Code was adopted. The failure of the proposed code to simplify the present Revised Statutes, the lack of uniformity of punishment and several other defects are pointed out.

In the resolution by which this report was adopted it was also stated that "the Bar Association Disapproves of the proposed Penal Code and opposes its enactment into law."

The following members were elected. George Xavier McLanahan, Aaron J. Colnon, Edmunds Putney, Lawrence Timpson, Johnston de Forest, H. Linsly Johnson, William Rumsey, Charles J. Fay, Herbert C. Larkin, Albert J. Appell, George Bates Hatch, Fanuall D. S. Bethune, Roswell S. Nichols, William B. Greeley, Franklin Brooks, Eugene Lanier Sykes, Francis P. Garvan, William A. Moore, William H. Hirsh, Herbert Lawton Ooffin, Charles R. Carruth, Charles I. Taylor, Merritt E. Haviland and Michael Kirtland.

The following were selected a nominating committee for officers for next year: Philip G. Bartlett, Charles G. Barlingham, William F. Dunning, Robert L. Harrison, James McKeen, Howard Mansfield, Charles Howland Russell, Edward W. Sheldon and Abraham Van Santvoord.

Judge Gaynor To Be Sent to Albany.

The rumor is that Justice William J. Gaynor of the Supreme Court, has been requested to accept an appointment by the governor to the Appellate Division of the Supreme Court for the Third Judicial Department at Albany.

There is a vacancy in that court and the remaining justices desire to have Justice Gaynor appointed to fill the vacancy. It is said that Justice Gaynor has asked to be excused.

Frank S. Smith a State Law Examiner.

It was announced on December 10, that Frank Sullivan Smith, of No. 54 Wall street, has been elected a State law examiner by the Court of Appeals. Mr. Smith will be one of the three examiners in the First District of the State. He will enter on his official duties on January 1. The term of office is three years.

Medico-Legal Society's Resolutions on Death of Simon Sterne.

The Medico-Legal Society at its last meeting adopted resolutions upon the death of Simon Sterne. They were introduced by Henry Wollman, and are as follows:

"Simon Sterne belonged to that class of men who by nature are reformers. He despised wrong, and had the courage to expose and fight it. He not only had the strength of vision to see the wrongs under which the public suffered, but had the skill to know how to correct them. He was not one of those men who pose as reformers

either to attract attention to subserve personal ambition, or to obtain an office. He devoted himself faithfully and incessantly to the service of the people without ever asking, seeking, or hoping for reward. No citizen of New York within the past thirty years did more in the interest of the community than he. In every movement for the public good he was either a leader or among the leaders.

"Simon Sterne was a clear and convincing writer. His works on Constitutional law and other kindred subjects are almost classics.

"He was an upright, thorough, and successful lawyer. He knew the law, and presented it clearly, luminously, and convincingly. He was engaged in most important litigations all over this country, and almost from the moment of his admission to the bar until the day of his death had the profoundest respect of the Judges all over the Union.

"He was always a student. He possessed the highest order of genius—intense industry, which was always exercised with such intelligence as to produce the most splendid results. By his death the people of this Nation and the bar of the entire United States have suffered a severe loss.

"Be it resolved by the Medico-Legal Society of New York that this society has heard with the deepest regret of the death of its member, Simon Sterne, an unselfish lover of his country, a loyal citizen, a great author, a profound lawyer, and, above all, a true man."

Dinner to Judge Seabury.

Samuel Seabury, Judge-elect of the City Court, was the guest on the evening of December 8, at a dinner given by seventy-five of his single-tax friends at the Marlborough Hotel. Charles Frederic Adams presided. Benjamin Doblin was secretary of the dinner committee.

Lawson Parry responded to the toast "Functions of Judicial Office." Henry George, Jr., remarked that Mr. Seabury was the first single-tax man called to office in this city. Other speakers were: Oliver Tims, Samuel Moffat, E. B. Whitney, J. S. Crosby, J. O'Neill, E. L. Ryder, De Forest Baldwin, John De Witt Warner, Hamlin Russell, C. O'C. Hennessy and W. Graham.

Judge-elect Seabury spoke of the great honor conferred upon him, and said he would administer the affairs of the office upon a basis of high ideas and principles and without regard to partisanship. "There is room in this city," he added, "for a party that believes in liberty in the Declaration of Independence."

Judge-elect Seabury is about twenty-eight years old. He was graduated from the New York Law School in 1893. A year later he was admitted to the bar. In 1897 the nomination for Alderman was offered to him by the Citizens' Union, but he declined it because of the candidacy of Henry George for the mayoralty, he being at that time president of the Manhattan Single Tax Club.

The invitations to the dinner were in the form of a summons, and told those invited that proceedings would be closed before dawn. Impressed upon the invitations was a fac-simile of the United States seal, countersigned by Father Knickerbocker, clerk.

OBITUARIES.

Archibald F. Cushman.

Archibald F. Cushman, of 115 Broadway, who lived at 71 West Seventy-first street, died on December 10. He was born in this city June 4, 1830. He graduated from Columbia College in 1850 and from Harvard Law School in 1853. He was a member of the New York Bar Association, of the Columbia University Alumni Association, of the Harvard Law School Alumni Association, and of Kane Lodge F. and A. M.

Maurice Leyne.

Maurice Leyne, a well known real estate lawyer, died on November 29, of old age. Mr. Leyne was born in Killybegny, Ireland, in 1816, and while yet very young came to this country with his father, who, with his family settled in Albany. After being educated at the Albany Academy, he studied for a time in France, and then entered upon the study of law in this city, and was admitted to practice in the year 1839. The license is signed by Chancellor Watworth. He formed a partnership with Nathaniel Bowditch Blunt, one of the leading lawyers of the state.

The late William Astor, father of Colonel J. J. Astor, was a student in this office. Mr. Leyne applied himself exclusively, and continued the practice of law for sixty years, until finally forced to retire by old age.

William Henry Patterson.

William Henry Patterson died recently at the New York Hospital of typhoid fever. He was a well known member of the New York bar, and during the last three years was engaged in promoting a number of enterprises. Mr. Patterson was graduated from the University of Pennsylvania in 1876 and from the Law School of the university two years later. He engaged in practice in Philadelphia until 1886 when he removed to St. Paul. In 1895 he returned east and took up the practice of law in this city, where he resided until his death. Mr. Patterson was a member of the University, New York Yacht, Racquet and Manhattan clubs of this city and the University Club of Philadelphia.

Arnold Harris Wagner.

Arnold Harris Wagner of 203 Broadway, living at 64 Macon street, Brooklyn, died on December 8 at his home. Mr. Wagner was born in Palatine Bridge, N. Y., in 1831. He studied law in this city, being admitted to the bar in 1852. He made a specialty of real estate law. He served for a time as chairman of the Republican general committee, and has been a delegate to many political conventions.

Norman Hedges Pollock.

Norman Hedges Pollock, died Sunday evening, December 1, at his late residence, 103 Hanson place, Brooklyn. Mr. Pollock had been sick about two weeks. He was on his way home from business in Manhattan when he was stricken with apoplexy. He was taken home and never recovered from the shock. Mr. Pollock was born in Wheeling, W. VA., in 1842.

Avery Titus Brown.

Avery Titus Brown, a lawyer of 16 Exchange place, who was noted as a specialist in trust estate, died at his

home, 33 East Twenty-first street, of pneumonia. He was born in New York sixty-five years ago, and had always lived here, his father having at one time been President of the New York Stock Exchange. Mr. Brown was for nearly forty years active in the management of the New York Institution for the Instruction of the Deaf and Dumb at Fort Washington Heights.

COMMERCIAL LAW LEAGUE.

The Executive Committee announces the following programme for the annual convention to be held at Niagara Falls, August 11-15, 1902:

Monday, August 11th, 1902.

2 P. M.—Open meeting of the Executive Committee.

8 P. M.—Informal reception, to be followed by an informal entertainment in charge of Mr. George S. Hull. The nature of the entertainment is to be decided by Mr. Hull, but it is intended as the occasion for a general meeting of the old and new members, so that all may be mutually acquainted before the opening of the formal exercises.

Tuesday, August 12th.

Morning Session, 10 A. M.—Opening exercises, including one or two brief addresses and responses.

The President's Annual Address.

Reports of standing and special committees.

Afternoon Session, 2 P. M.—Report of the Committee on free reporting. Mr. F. S. Dunshee, Chairman, followed by a general discussion. In charge of President Ferguson.

8 P. M.—Formal ball. In charge of Messrs. W. S. Bicksler and W. O. Sprague.

Wednesday, August 13th.

Morning Session, 10 A. M.—Addresses on "The Foreign Corporation Laws of the different states and their bearing on the rights of inter-state commerce, as guaranteed by the Constitution of the United States" Followed by a general discussion. In charge of Mr. E. W. Gans.

Afternoon Session, 2 P. M.—Report of the Memorial Committee.

Report of the Committee on Resolutions.

Miscellaneous business session, at which members will be invited to present for immediate discussion any matters which they may deem of interest to the League.

8 P. M.—Banquet. In charge of Messrs. E. C. Ferguson and Martin Clark.

Thursday, August 14th.

Morning Session, 10 A. M.—Address on the National Bankruptcy Law followed by discussion. In charge of Messrs. W. S. Bicksler and George S. Hull.

11.30.—Address on "Legislative Restraint of Free Speech." Followed by discussion. In charge of President Ferguson.

Afternoon.—Trip through the Gorge of the Niagara River, or other outdoor entertainment.

Evening Session, 8 P. M.—Election of officers.

Friday, August 15th.

Morning Session, 10 A. M.—Open meeting of Executive Committee.

LAW SCHOOLS.

Tulane Law School.

The Tulane Law School resumed its session recently. The attendance is somewhat larger than it was last year at this time, and new students who will come in later will increase the class to about eighty-five. There has been no change in the professors. They are: H. H. Hall, dean; H. Deney, T. C. W. Ellis, E. E. Saunders, F. E. Monroe.

University of Chicago—Department of Law.

A rumor that the long hoped for law school is soon to come to the University of Chicago has caused considerable excitement among the students. President Harper's sudden trip East, together with hints let fall by faculty members who give courses in law, were the grounds upon which the students based their hopes.

Faculty and students are unanimous in expressing the need for a great law school on the campus. Graduate schools, like Harvard, draw a large number of the best in the university each year.

There is already the germ of a law school at the university. Enough law

University of Pennsylvania—Department of Law.

The only museum and gallery devoted exclusively to legal historical exhibits is located in the new building of the Law School of the University of Pennsylvania. The museum was dedicated last spring on John Marshall Day, and is already rich in collections of portraits of famous jurists, original autograph letters and manuscripts, rare and ancient pamphlets and books on legal subjects, original prints, engravings and curios and objects of value and interest to students engaged in legal research. The museum is in charge of the Pennsylvania Bar Association, which will make it a depository for its official records and its valuable collection of exhibits from all counties of the State. A Student's Legal Historical Society has recently been organized, which is co-operating with the Bar Association in its efforts to render the museum more complete and valuable to the profession.

Knowledge of the practice of the Delaware courts is a branch of the law which students and lawyers hitherto have had to acquire in the best manner they could. There is no work or treatise upon the subject, and while meagre references to practice may be found here and there through the reports, the larger part of Delaware practice is founded upon custom, and therefore is unwritten law. Learning upon this subject can, in a measure, be acquired by diligent research through the State Reports, but the most usual way for the young lawyer to become familiar with this important branch of the law is to ask for and rely upon the advice and suggestions of older lawyers and the clerks of the courts.

The course on Delaware Practice in the Department of Law of the University of Pennsylvania which was established last year now gives to the students who propose to pursue their profession in the State of Delaware complete instructions upon the manner and

method of applying the learning they acquire in other courses, and equips them with the knowledge how to pursue the rights and complete the remedies concerning which they know their cases entitle them. The lectures which are delivered by Victor E. Wolley, the Prothonotary of the Wilmington, Del., courts, are colloquial and treat of the method of bringing suit in the several forms of action and carrying them through pleading to trial, judgment and execution. Hypothetical cases are suggested, and the students are required to draw and file papers and make motions in the same manner as papers are drawn and filed and motions are made in the courts of Delaware. The meaning and effect of the rules, pleadings and motions are considered and the lecturer then invites discussion upon the legal effect and consequence of certain pleadings and motions with relation to the case on hand. Ordinary writs are handed to the members of the class, and accepted forms of narrs, petitions, affidavits, bills and other papers are given to the students for present instruction and future use.

As there has always been a separate course on the subject of Common Law Pleading at the University of Pennsylvania, only such pleading is taught in

Mr. Wolley's course as is peculiar to Delaware, where the old Common Law Pleading exists in its purity, and in the discussion of both pleading and practice, constant reference is made to the State Reports and the Revised Code, with the object of enabling the student to know where to find the law.

The method of teaching is to compel the students to institute and plead hypothetical actions in the same manner and with the same care and caution as in actual practice, and to this end Mr. Wolley acts from time to time towards the students in the capacity of clerk of the court and judge. Experience shows that the students attend well and by reason of the live nature of the law, seem interested in the course.

They avail themselves of the opportunity for the informal interviews with the lecturer during the half hour before the lecture begins, and in this way any points or matters that are not made clear in preceding lectures are reviewed and explained.

The University of Pennsylvania annually draws from 30 to 50 students from Delaware, and the number increases each year. The number of students enrolled in the law department alone this fall is 7.

Several practicing attorneys and law students from Delaware are taking this course as "Special Students," not pursuing the regular law course.

The registration up to date is as follows:

First year, 178; second year, 87; third year, 87; specials, 17; partials, 17; total, 386.

The following subjects have been elected by third-year class, the number after each subject indicating the total number of students electing the course:

Bankruptcy, 18; Law of Association, 85; Equity (Contracts) 40; Constitutional Law, 32; Mortgages and Corporate, 51; Property, 36; Practice (Pennsylvania), 80; Negligence and Damages, 47; Constitutional and State Law of Pennsylvania, 57; Insurance, 5; Practice (Delaware), 5; Practice (New Jersey), 7; Roman Law, 14; Carriers', 5.

CREDIT MEN AND CREDIT ASSOCIATIONS.

The following summary of reports of committees, for 1900 and 1901 has been compiled by the president of the New York Credit Men's Association.

November, 1901.

Dear Sir:—As a result of the work done by the various committees for the year past I would respectfully submit as follows:

The Legislative Committee.

This Committee worked very hard to secure legislation in our own State here, first, so as to amend the Penal Code by broadening the scope and penalties relative to the utterance of false statements and the making of false pretences. Second, to broaden the law of attachments so as to make the sale of goods out of the regular course of stated or advertised business procedure presumptive evidence of intent to defraud creditors, and enable attachments to be granted by the courts where sufficient grounds exist to the satisfaction of the court. Third, a revision of the statutes relative to the

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CHARLES R. EVANS, DEAN, Chattanooga, Tenn.

responsibilities and duties of auctioneers by obliging the advertising of sales of merchandise and requiring affidavit of the seller as to title of the merchandise and the absence of any lien against it to the detriment of the honest creditor.

While we were not able to report the success of these measures before our legislature, we will persistently keep at it until the good work is accomplished.

We have not overlooked our interest in the various amendments introduced by Senator Ray to the National Bankruptcy Act, especially with regard to that disputed clause on preferences, which is a very delicate subject and has opened up very great discussion, and if too much is demanded it would not be beyond question that Congress might endeavor to repeal instead of amending the whole bill.

PROMINENT LAW SCHOOLS.

The following is a list of the most prominent law schools throughout the country. Representation in this list will be accorded to law schools, etc.

- ALBANY LAW SCHOOL.....Albany, N. Y.
- Allen University Law School.....Columbia, S. C.
- Atlanta Law School.....Atlanta, Ga.
- Baltimore University Law School.....Baltimore, Md.
- BOSTON UNIVERSITY LAW SCHOOL.....Boston, Mass.
- Buffalo Law School.....Buffalo, N. Y.
- CHICAGO COLLEGE OF LAW.....Chicago, Ill.
- CHICAGO LAW SCHOOL.....Chicago, Ill.
- Geo. W. Warralle, LL.D., Dean. Preparatory course. Under-Graduate Course of three years leads to LL. B. and admission to Bar. Post-Graduate Courses lead to LL. M. and D. C. L. For catalogue address J. J. Tobias, LL. B., Sec'y, 115 Dearborn Street, Chicago, Ills.

- Columbia College Law School.....New York City, N. Y.
- CORNELL UNIVERSITY COLLEGE OF LAW.....Ithaca, N. Y.
- Denver University Law School.....Denver, Colo.
- Detroit Law School.....Detroit, Mich.
- Garfield University Law School.....Kansas
- HARVARD LAW SCHOOL.....Cambridge, Mass.
- ILLINOIS COLLEGE OF LAW.....Chicago, Ill.
- Ill. Wesleyan Univ'ity Law School.....Bloomington, Ill.

LAW DEPARTMENT, UNIVERSITY OF VIRGINIA.....

Charlottesville, Va. The session begins September 15th, and continues nine months. The course for the B.L. degree covers two sessions. For catalogue address P. B. BARRINGER, Chairman of Faculty.

- Louisville University Law School.....Louisville, Ky.
- New York Law School.....New York City, N. Y.
- Richmond College, Law Dept.....Richmond, Va.
- SOUTHERN NORMAL UNIVERSITY COLLEGE OF LAW.....Huntingdon, Tenn.

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- St. Louis Law School.....St. Louis, Mo.
- Tulane University Law School.....New Orleans, La.
- University of Maryland, Law Dept.....Baltimore, Md.
- University of Texas, Law Dept.....Austin, Texas.
- University Extension Law School.....Chicago, Ill.
- University Law School.....New York City, N. Y.
- Univ'ity of Pennsylvania, Law Dept.....Philadelphia, Pa.
- WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW.....Lexington, Va.
- Western Reserve Univ'ity Law School.....Cleveland, O.
- Wisconsin University Law School.....Madison, Wis.
- YALE UNIVERSITY LAW SCHOOL.....New Haven, Conn.

CHICAGO COLLEGE OF LAW.

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SUMMER QUARTER (June, July and August) opens June 16, 1902.

Registration for 1900-01, 250 Students.

Send for catalogue and special circular to the President,

HOWARD N. OGDEN, Ph.D., LL.D., 112 Clark St., Chicago.

The Investigating and Prosecuting Committee.

Our Investigating and Prosecuting Committee did all the work that was brought before them and in two of the cases made a notable success and which we thought worth mentioning here. The principal one was the matter of the party in Far Rockaway, N. Y.; this defendant was represented by a party who was later substituted by another lawyer. The method adopted was the usual one of giving a fraudulent bill of sale followed by an auction, thus using up the assets and then endeavoring to pass through the bankruptcy court without a chance of the creditors getting any portion of their claims. A discharge in bankruptcy was refused at the time until the Referee could take testimony to support our specifications in opposition to it. The case was fought through March well into June and many witnesses were examined and the Referee is now preparing his report to the court and we anticipate the report will be very adverse to the defendant.

Growing out of this we found that the first party who took up the case was not really an attorney and that he had solicited a claim of one of the creditors and obtained a cash retainer. This party we are following up and had him before the court and his trial will take place at Petty Sessions about October 15th. We are also tempted to prefer charges against the second attorney, who represented this party, before the Bar Association, but we feel that we have succeeded in putting a finish to these fraudulent practices at least in Kings and Queens Counties and have alarmed a number of individuals who were not adverse to defraud by selling out retail businesses and holding auctions of a fraudulent nature.

In the matter of Harry Morgan in defrauding the Oil and Paint trade we succeeded in lodging him in jail, and while he was there the proceeds of his last dishonest transactions were sold out by one of his accomplices who escaped from the jurisdiction of the court and cannot be found. In this we broke up a well systematized organization of fraud.

There were several other cases yet pending, but these above mentioned show that we are not idle and are willing, where opportunity offers, to do, within our means, all that can be done to make rascality unprofitable.

Improvement of Mercantile Agency Service.

With regard to this our members have the knowledge that the service they are now receiving from the Mercantile Agencies is improving daily, reports are more satisfactory, more up to date, and where poor service has been rendered at any time to any of our members who will lay the matter before this Committee, they will find the complaint, if a just one, will meet its remedy.

The National Association have blanks of comparative service of the two greater Mercantile Agencies, and if our members would provide themselves with these blanks and present their experience it would serve a very useful purpose.

The report deals with averages and percentage only and it is therefore immaterial whether it is based on one hundred or one thousand reports, only in so far as a greater number would command more attention and influence. Sample blanks for this purpose will be sent you on application.

Membership Committee.

report that there were forty-three additional names added to our list in the past year, and to-day we number 425.

This Committee suggests that individual efforts on the part of our members if they each added but one name to the roll, would necessarily increase our efficiency, for numbers help us in our endeavors and we would wish to present a very strong roll when our legislators are considering the suggestions of our Legislative Committee.

While a material increase in membership is always desirable we do not wish it to be understood that we desire this increase for the revenue it produces, but rather for the increased opportunity it presents to place the Association before the business men of the country and gain their moral support.

"Co-operation is the Keystone of Successful Reform."

Business Literature Committee.

while a very great part of what we might have issued as of moment to lawyer 44

our members has been distributed through the circulation of the National Association in its two additions of the "Bulletin" and "Business Topics," still they have at times issued circulars which are pertinent to our local Association and will continue in that good office.

Business Meetings Committee.

In the past year there were four business meetings with the customary dinner preceding each. These meetings

took place October 18, 1900, December 12, 1900, February 14, 1901, and April 25, 1901. The attendance at these meetings was very large and the subjects of discussion were exceedingly interesting and attracted widespread attention from our own members and from the local press. We would wish also to see the attendance even larger for the benefits that would accrue to those attending.

The Treasurer reports balance on hand September 1st, 1900..\$1,706.56
Receipts..... 6,140.28

Disbursements..... \$7,846.84
Balance on hand September

1st 1901..... \$1,537.01

Our rooms are always at the convenience of our members for special meetings, if a few hours notice is sent to the Secretary so that no two meetings may be announced at the same hour, and the trade papers are on file and members are invited to use them.

Please notify the Secretary of any change of address or of representative.

Respectfully,

Chas. E. Meek, President.

The following is a list of the Association's officers: President, Charles E. Meek, with National Lead Co.; Vice-President, G. Waldo Smith, of Smith & Sills; Treasurer, Edw. E. Huber, of Eberhard Faber; Secretary, H. J. Sayers, New York City.

Executive Committee. Two years—C. M. Allen, of Tefft, Weller Company; Malcolm Graham, Jr., of F. O. Pierce Co.; B. M. Holzman, of Holzman Bros.; Jos. P. Martindale, Chemical Nat. Bank; A. H. Watson, of Watson, Porter, Giles & Co. One year—M. E. Bannin, of Converse, Stanton & Co.; W. A. H. Bogardus, V. P. Tubular Dispatch Co.; R. P. Messiter, of Minot, Hooper & Co.; Frank C. Travers, Pres. Travers Bros. Co.; U. S. Young, Cashier Central Nat. Bank.

Legislative Committee—W. A. H. Bogardus, chairman, V. P. Tubular Dispatch Co.; M. E. Bannin, Converse Stanton & Co.; Charles Biggs, Actuary of the Hat Trade Credit Association; E. R. Gilmore, Western Electric Co.; E. E. Jackson, Jr., Manufacturers' & Dealers' Protective Association; G. Waldo Smith, Smith & Sills; Otto A. Strecker, Abegg & Rusch.

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Business Meetings Committee.—A. B. Treat, chairman, American Credit Indemnity Co.; F. R. Boocock, H. W. John's Mfg. Co.; R. B. Minis, Merchants' National Bank; N. N. Money-penny, Albarone Stone Co.; F. H. Simmons, John Simmons Company.

"The President is a member Ex-Officio of all Committees."

BOOK REVIEWS.

Silver, Burdett & Co., publish a little volume of "Forensic Declamations," edited by A. H. Espenshade. It contains about a hundred examples of eloquence, mostly short, taken from the famous speeches of orators, and ranging from the days of Demosthenes at ancient Athens to Theodore Roosevelt at Chicago.

Among the recent English law books published by Butterworth & Co., are the following:

Rawlins and Macnaghten on Companies, being the "companies acts," 1845 to 1900, consolidated and annotated.

Fraser's Law of Libel and Slander, 3d edition.

Abbott's Law of Merchant Ships and Seamen, 14th edition.

Underhill on Trusts and Trustees, 5th edition.

Michael & Will's Law relating to Gas and Water, 5th edition.

J. R. Dos Passos, of the New York bar, delivered before the Industrial Commission at Washington, in 1899, an address on "Commercial Trusts; the Growth and Rights of Aggregated Capital." This has now been published by G. P. Putnam's Sons, in the "Questions of the Day Series."

The Laws of Illinois Relating to Cities and Villages, by E. M. Haines, has gone into a fifth edition, newly issued by the Legal Adviser Publishing Co. The new issue, edited by Andre Matteson, contains notes and forms, and an epitome of parliamentary law adapted to the use of city councils and village boards.

The Carswell Co., Toronto, has just published a new edition of Maclaren's "Bank and Banking," incorporating the changes in the law made by the amendments of 1900, and late decisions. Among their other recent publications are "Succession Duty in Canada," by R. A. Bayly, containing the text of the act in force in each Province of the

Dominion, amended to date, with notes of all judicial decisions thereon; and Maclennan on Interpleader, the first extended text-book upon this subject. Interpleader is a branch of the law of comparatively recent development.

Cyclopedia of Law and Procedure, vol. ii.; published by the American Law Book Co., New York City.

Vol. II. "Cyc" has recently been received. Our attention was first attracted by an excellent and extensive article under the title "Appeal and Error." It is a remarkable fact that this is the only exhaustive general work to be had in this country upon this most difficult subject, although the decisions run into the tens of thousands. It is gratifying to learn that every line of this extensive title has had the personal scrutiny and sanction of that distinguished jurist and author, Judge Walter Clark, of the Supreme Court of North Carolina, who spent a large portion of the summer upon this subject.

The title "Animals," hopelessly scattered under numerous headings in other law encyclopedias, and entirely omitted from the Encyclopedia of Pleading and Practice, receives here a complete and masterly treatment. This title, edited by the well-known Dean of the Boston University Law School, Samuel O. Bennett, requires no further comment or recommendation. The treatment of this one-hundred and seventy-page title, both as to law and practice, cannot be duplicated. "Affidavits," in thirty-seven pages, by E. A. Craighill, an able writer of long experience, will be found exceptionally full and satisfactory. "Alterations of Instruments," in one hundred and twenty-three pages, edited by John F. Dillon, author of Dillon's "Municipal Corporations," and one of the foremost lawyers in this country, is a concise and luminous presentation of this difficult and perplexing branch of the law. "Aliens," by A. C. Boyd, of Maine, "Amicus Curiae" by A. P. Will, author of Will's "Circumstantial Evidence," "Agriculture," by Supreme Judge Collins, of New Jersey, and "Affray," by Supreme Judge C. L. Lewis, of Minnesota, and other titles and numerous adjudicated words and phrases, will all, we think, be found fully up to the high standard there has been set for this work.

A Handbook on Parliamentary Practice, by Rufus Waples, author of Treatises on Attachment and Garnishment, Proceedings in Rem. Homestead and Chattel Exemptions, &c., second edition enlarged. Published by Callaghan & Co., Chicago, Ill. Price—

"We have had the pleasure of perusing an excellent book upon the subject of Parliamentary Law written by one who is evidently an expert in that science. The language is clear and concise and the exposition of law full and complete, so that the present word we believe will be immediately adopted as the standard manual for public meetings. A question which has sometimes vexed chairmen at meetings is that of an amendment to an amendment. At least we confess that it has vexed us very often and we therefore turned to page thirty-four with considerable interest. Discussing it the author says:

"Motions to amend extend to the second degree but not beyond. Further

modification would tend to confusion rather than to clear expression of deliberative will. Some limit is necessary, and the usage has grown into law that an amendment to an amendment is allowable, but that no motion can be entertained to amend further.

"The motion to amend an amendment supersedes the question on the amendment, and becomes the only topic immediately under consideration. It must have some disposition before either its immediate predecessor or the original resolution can be further handled. It becomes the only question before the assembly for immediate consideration.

"Applications of the motion. This motion is in character so much like that just considered, that nothing more need be said than that it may be to strike out, strike out and insert, or simply insert, but with reference to the amendment only which it seeks to modify. So important, however, is this parliamentary instrument that its temporary postponement carries with it the amendment and the original resolution; and when the assembly afterwards resumes consideration of the question, the amendment to the amendment retains its place in front, so that it must be adopted or rejected before any further step towards a vote upon the older questions can be had.

"By the 31st of the Standing Rules of the U. S. Senate, when an amendment by striking out and inserting is pending, 'motions to amend the part to be stricken out shall have precedence.' It seems to be specially allowed that while a motion in the second degree to amend the words to be inserted is pending, another motion in the second degree to amend the part of the motion of the first degree, to strike out, may not only be entertained, but shall have the preference.

"A motion to amend an amendment may be divisible, subject to the same proceeding as a divisible first amendment or original motion: and this is common practice. It may be withdrawn by the mover before being stated, or upon motion after having been stated, precisely like the antecedent propositions. A motion to divide, or to withdraw, would not be in the third degree, for neither is an amendatory motion. When put to vote, the chair should state the question, the matter proposed to be amended, and the resolution as it will read after the modifications, and, to do so, it is better that the secretary be called upon to read the pending resolutions, pending amendment and immediately pending modification of the amendment. Then the chair should, if the meeting is ready, put the question on the amendment to the amendment. When the decision has been announced, whether the motion be carried or lost, another amendment to the amendment, if moved, would be in order. If the motion above discussed has been carried, the modification of the amendment has been merged in the amendment, so a motion further to modify the amendment would not be in the third degree. If the motion has been lost, the field is equally clear for another motion to amend the amendment without trenching upon the prohibited bounds.

"There is no limit to the number of amendments to amendments, provided they come by one motion at a time, when no other amendment in the

second degree is pending. The assembly can easily protect itself from abuse in this direction by remedies readily applicable, as will hereafter appear.

"Although it is a settled rule of parliamentary law that amendment beyond the second degree is not permissible, yet by Rule XIX of the U. S. House of Representatives, 'When a motion or proposition is under consideration, a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon.'"

A Treatise on the Procedure in Suits in Equity in the Circuit Court of the United States by C. L. Bates, of the Bar of San Antonio, Texas in two volumes. Published by T. H. Flood & Co., Chicago.

As the author very aptly states in his preface this work has been written in response to a demand for a treatise containing a full and systematic statement of the procedure in suits in equity in the circuit courts of the United States. During the last twenty-five years, the really great and important property litigation in this country has been chiefly in suits in equity in the federal courts, and such litigation is likely to increase with the progress of the country. The procedure in the state courts is the same in all States of the Union, not controlled by procedure in the state courts, but materially variant from it; and the busy lawyer, practicing in both state and federal courts has often felt the need of a work furnishing readily a complete and comprehensive statement of the rules of procedure in suits in federal equity. The aim of the author has been to state fully the procedure in the prosecution and defense of a suit in federal equity, with all its incidents and minor details from the preparation and filing of the bill to, and including the final decree, and appeal and appellate procedure. The successive steps in the progress of the suit, and the various rules of procedure applicable to them, have been stated in their due order and sequence. The book has been written throughout upon the principle laid down in United States equity rule ninety. Wherever any question of procedure is covered by a federal statute or an equity rule promulgated by the Supreme Court, such statute or rule is quoted or cited as conclusive of the question. Where there is no such statute or rule of court, the English chancery procedure as it existed in 1842, when the United States equity rules were adopted, is stated.

The writer has had occasion to examine a number of works on the very subject treated of by Mr. Bates and some time ago arrived at the conclusion that our system of equity procedure was in need of an able expositor. It may be imagined, therefore, that the present treatise was examined with careful attention. We have found much to praise and but little to blame. While it might have been better had the quotations been less voluminous, presenting as the work does at times the appearance of padding, yet the author has steered very close to the proper line of demarcation in such cases and on the whole has produced a very valuable treatise.

Take for instance the question of examination pro interesse suo, or intervention by petition, as contained in volume 11 at page 662, as discussed in the author's own language. "This summary and informal method of intervention was first adopted for the relief of persons, not parties, whose property had been improperly seized under a writ of sequestration issued to compel the appearance of a contumacious defendant; it was afterwards extended to cases where a receiver appointed by the court had been placed in possession of property belonging to persons not parties to the suit, or in which they had an interest. Regarding this method of intervention, Lord Chief Baron Gilbert said: 'Where the sequestrators seize the real estate of the party any tenant or other person who claims title to the estate so sequestered either by mortgage, judgment, lease, or otherwise, or who hath a title paramount to the sequestrators, shall not be obliged to bring a bill to contest such title, but he shall be let in to contest such title in a summary way, viz.: He may prove by his counsel (as of course) to be examined pro interesse suo, and in this case the plaintiff is to exhibit interrogatories, in order to examine him, and for a discovery of his title to the estate, and he must be examined on such interrogatories accordingly, and the master must state the matter to the court, and the parties may enter into proof touching the title to the estate in question. And when the master has stated the whole matter to the court, it proceeds to give judgment therein upon the report, and if it appears that the party, who is examined pro interesse suo, hath a plain title to the estate, and is not affected with the sequestration, then it is to be discharged as against him, with or without costs, as the court shall determine upon the circumstances of the case, and so vice versa; and there may happen other circumstances and proceedings upon a sequestration which cannot fall within the general rule here laid down, and which must be determined according to the nature of the case, as it appears to the court.' When any person not a party to the suit claimed either any real or personal property which had been seized in sequestration or in receivership, he presented his claim to the court, either by petition or motion, upon notice, describing the property and stating the facts under which the claim arose; or, as was said in one case, specifying what he claimed title to, and how he claimed it. The application was usually supported by affidavit. Upon filing the claim, an order was made for the examination of the claimant pro interesse suo, upon interrogatories prepared by the plaintiff's counsel. This was what is known in equity as a technical examination; it was in the nature of a bill of discovery, for the discovery of the claimant's title to the estate, and his answers to the examination were in the nature of an answer to a bill in chancery, and had the same effect as proof as an answer in chancery, upon the issues presented by the claim. When the master had completed the examination pro interesse suo, he reported it to the court, and the plaintiff then 'replied to the examination,' that is, he took issue upon the claim, and denied the statements of the claimant made in his answer to the interrogatories in support of the claim. Upon the issue thus formed, both the plain-

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tiff and the claimant might take depositions of witnesses, and when the depositions upon the issue were all in, an order was made passing publication, another order was made referring the examination and depositions to the master to look into and certify to the court whether or not the claimant had made out a title to the premises or property. The master then made his report that the claimant had or had not made out a title. This report was not excepted to by either party. In one case Lord Harwicke said that the taking of exceptions to such report was not the mode by which the question was brought before the court, and was improper, and that it was not a report to which exception lay, but the report should have been set down for hearing before the court. And that is the practice established by the cases. The report was set down for hearing before the court, and all the evidence upon the issue of title was laid before the court, and the question was argued and the court passed upon the issue, allowed or disallowed the claim, and entered a final decree. If the plaintiff failed to 'reply to the examination,' he was in the position of one who had set a cause down for hearing on a bill and answer, and all the statements in the examination pro interesse suo were, upon hearing, taken as true. In a clear case and where the facts are not disputed, the court will not send the parties to the master's office, but will hear the claim and dispose of it at once.

Both methods of intervention adopted in the federal courts.—The courts of the United States have adopted, adapted and assimilated, as a part of their equity procedure, the remedies of inter-

vention by both (1) formal bill and (2) also by the summary and informal procedure known as examination pro interesse suo, or petition pro interesse suo, the latter being generally followed where third parties assert claim to or an interest in, or a lien upon, any property, real or personal, which is in the custody and possession of the court by means of a receiver."

Thoughts in verse by Duncan Francis Young, published by the Abbey Press, 114 Fifth avenue, New York.

We once had the pleasure of numbering among our friends a Milesian gentleman who undertook to describe in verse the Siege of Limerick. But four lines remain fixed in our memory. He opens as follows:

With pen and ink and paper too
Reader, I write these lines to you.

And at a particular gory portion he tells of the hero's death.

Full fifteen wounds had hit his chest
And sixteen split his manly breast.

Since reading the above and the Hon. James Gordon Coogler's touching poem wherein he bewails the literary degeneracy prevailing south of Mason and Dixon's line in the following manner

Alas, for the South her books are few
She never was given to literachew.

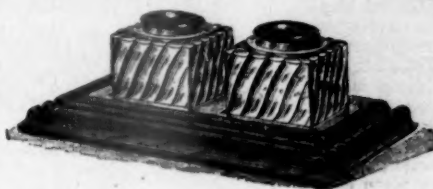
It has not been our pleasure to peruse any work which has given such unalloyed and childlike pleasure as has the poetry of Mr. Duncan Francis Young, the sage of Amite City, (La.) Knowing naught to the contrary we are prepared to believe that Mr. D. F. Y. is a lineal descendant of the author of the "Night Thoughts" and that the former's poetic effusions are to be regarded as the legitimate and daylight sequence of the latter's nocturnal meditations. Now as compared with our feeling for this new born poetic genius, that brooding adoration of a mother for her child, of a lover for his adored is as the idle whispering of the wind, the meaningless roar of the ocean. At times we, too, have ourselves thought in thunks and many of the latter have borne a not unremote resemblance to those of Mr. Y., usually this occurred about 4 A. M., and our friend can derive comfort from the assurance that any recognized member of the medical fraternity will be able to fix him up with a bromo seltzer next morning.

But let the "thoughts" speak for themselves (to employ a somewhat of a bull.) The first charming ditty is (to borrow a phrase now become somewhat celebrated because of the personality of its creator), "touchin' on an' appertainin'" to "Ben, the Sage of Bantia." It seems to be a modernized version of Joseph and his brethren and is (unlike "Omnia Galliae") is divided into five (not three) parts. This one feature, Gentlemen, is worth the entire price of admission. The first canto is headed, "The morning of life," and we quote it in extenso.

The gentle zephyrs softly blow,
The lazy herdsman layeth low,
The sun is shining brightly now,
The birds are singing on the bough;
For youth and pleasure vaunteth here,
And naught but laughter brings a tear.

To Ben his life is morning now,
The flush of youth surrounds his brow,

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Unlike the zephyrs, which doth blow,
His whistle pulsates loud and low;
For he is loved by man and beast,
He loveth all—as well the least.

Note the charming simplicity of the line relative to the "lazy herdsman laying low." Serious thought has hitherto not enabled us to grasp the author's exact meaning, as the phrase "laying low" while singularly appropriate to the course of action to be pursued at certain stages of our great national game when drawing for a straight flush, seemed somewhat inapplicable to a time when the genius of mankind had yet failed to realize its ultimate destiny. (We haven't the faintest conception what this last phrase means, but it somehow sounds all right.) However, this may be mere captiousness on our part. We are glad to know that the "sun is shining brightly now" as the beauty of the picture which those few words depict fills our inmost being with a sense of gladness. This new star in the literary firmament, somewhat resembles Browning in that at times he is not as clear as may be desired for we have not yet comprehended the meaning of the line relative to youth and pleasure "vaunting," though where he states that "naught but laughter brings a tear he shows a true sense of the possibilities of humor. Note also how "his whistle pulsates loud and low." While not a "blower" like the zephyrs, Ben was evidently a factor in the entertaining world, even in those days when the variety show was not.

Canto two is aptly headed "Troubles accumulate" and the unfortunate Benny is sold into slavery.

"His death had been of lighter form
Than what was placed in store for him,

For he is tempted by Black Prince,
Who proves his guilt of charges grim;

And he is thrown into the jail
Without the benefit of bail."

Critics have wondered how a man of such intense versatility as Shakespeare could possibly have existed, displaying as he does an accurate knowledge of all walks in life and it is possible that future ages will marvel at the legal lore of Mr. Young in his celebrated description of the jurisprudence of our prehistoric ancestors when he informs us that the hero

"Is thrown into the jail
Without the benefit of bail."

The third canto shows how "Ben displays intelligence" and incidentally affects a corner on grain.

Hastening up to Acis,
Brazenly stirs Black Prince,
Trying once more his power,
Slowly Ben's heart to mince.

"Slowly Ben's heart to mince" is good. The society for the Prevention of Ornelty to Animals was evidently

not on hand, but we'll pass on. Canto four tells how

Ben's father, who was Abraham,
His eldest son did send,
To Bantia for some provender,
As far as to the end.

Mr. Young evidently comes from districts where giving "provender" to the cattle is part of the "chores." In the fifth chapter everything ends happily. The being who is not affected by its beauty, yea, verily to tears is capable of any crime from high treason to a violation of Regulation CXIV of the local Board of Health.

The son steps down from off the throne,

And falls upon the neck,
Of father, brother; each in turn
With kisses, tears they check.

Another exquisite poem entitled "Wouldst thou still forget?" was, as the author informs us a "suggestion to a love sick maiden on the verge of committing suicide." We don't know what the Statutes of Louisiana are on this subject but our well meant advice to Mr. Young is that he had better keep out of this State. Our laws are stern and rigorous and aiding and abetting suicide is a penal offence, punished by very heavy penalties. We don't know whether it accomplished the desired effect or not, but it is our private opinion that if we ever contemplated throwing off the mortal coil the following opening would in itself prove quite a sufficient inducement.

How can you ask that you forget
The one you've learned to love,
Whose face is by in morning's light
As true as coos the dove?

Mr. Young is a man of the "peepul." He writes not in the flowery strains of Swinburne of the "roses and rubies of peace, the lilies and languish of love" (this may not be strictly accurate, but we give it for what it's worth) nor is his language that of late poet Laureate who rings the changes upon such abstract articles as "knights and ladies fayre." We append one more verse to illustrate this

A little star more bold than wise
Laid out to cheat its brothers
And through the air it cut it's way
And fairly dimmed the others.

Note the expression "laid out" which with "reckon" and "chaw" is, we believe indigenous to the locality in which Mr. Young has his earthly dwelling. This little verse in itself speaks whole volumes and while the author is too modest to apply it to himself yet posterity must deem it typical of his poetic aspirations.

LAWYERS IN TROUBLE.

City Attorney L. K. Salisbury of Grand Rapids, Mich., has been convicted of accepting a bribe of \$75,000 for assistance in pushing through a

deal by which the city of Grand Rapids was to award to eastern capitalists a \$4,000,000 contract for furnishing the city with water from Lake Michigan.

One of the trial's sensational features was the charge of the prosecution that State Senator George Nichols, one of Salisbury's attorneys, had attempted to bribe the people's principal witness.

Indicted with Salisbury were Henry A. Taylor, a young New York millionaire, Attorney Thomas McGarry and Stilson V. McLeod.

On the charge of executing pension vouchers in the absence of pensioners, and acknowledging that applicants personally appeared before him when in fact they did not, Probate Judge K. W. Tannyhill, of Holmes county, Ohio, was arrested recently, and brought to Cleveland before the United States Court. United States Commissioner Stage at the hearing, bound Judge Tannyhill over to the next term of court on \$500 bail. For some time the government officials have suspected that there were irregularities in the executing of pension vouchers all over the country and had started an investigation. Judge Tannyhill protests that he is innocent and gave bail.

William Raymond Weeks, once a leader of the New Jersey Bar and identified with the settlement of many large estates as executor, was arrested on the afternoon of September 11 on the complaint of Mrs. Emma Plaut, and is lodged in Ludlow street jail, New York City, in default of \$40,000 bail. He is accused of misappropriating \$37,986.16 in cash and of playing ducks and drakes with an estate of \$167,000.

Mrs. Plaut has brought a civil action against him to recover the money, as the guardian of her daughters, Miss Hortense S. Plaut and Miss Blanche E. Plaut, who will shortly come of age. The money is a fund which their father, who was the founder of a prominent dry goods house in Newark, N. J., left for their exclusive use.

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Winamac (Palaek).....Nye & Nye

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Ardmore (Pikieins).....J. C. Thompson
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Chickasha (Pickens).....Charles L. Fechheimer
Grove (Cherokee Nation).....Send to J. C. Starr at Vinita
Muldrow (North Dist.).....See Wagoner
Muscogee (Creek Nation).....Hutchings, West & Parker
Nowata (Cherokee Nation).....T. J. Lillard
Purcell (Pontotoc).....W. H. Pope
Sallisaw (Cherokee Nation).....Watts & McCombs
So. McAlester (Choctaw Nation).....McKENNON & DEAN.
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Tahlequah (Cherokee Nation).....J. T. Paris
Tishomingo (Cherokee Nation).....S. C. Treadwell
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Vinita (Cherokee Nation)
Hutchings, Parker & West.
J. C. Starr. Refer to First Nat'l Bank of Vinita and Planters Mutual Ins. Ass'n, Little Rock, Ark.
Dennis H. Wilson. Refer to First National Bank of Vinita.
Wagoner (Creek Nation).....Craig & Kellogg

IOWA.

Ackley (Hardin).....Daniel Eiler
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Afton (Union).....H. P. Armitage
Albia (Monroe).....Townsend & Mason
Algona (Kossuth).....E. V. Swetting
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Anita (Cass).....Walter E. Haynes
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Atlantic (Cass).....H. M. Boorman
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Ayrshire (Palo Alto).....Send to Emmetsburg
Baldwin (Jackson).....Send to Maquoketa
Barnum (Webster).....Send to Fort Dodge
Batavia (Jefferson).....Send to Fairfield
Bedford (Taylor).....Send to Fairfield
Bellevue (Benton).....Stowell C. Avery
Belmond (Wright).....C. W. E. Snyder
Birmingham (Van Buren).....Albert J. Lary
Bode (Humboldt).....Send to Humboldt
Boone (Boone).....W. Canaday
Burlington (Des Moines).....W. L. Cooper
Calmar (Winnebago).....Send to Decorah
Carroll (Carroll).....C. E. Reynolds
Cedar Falls (Blackhawk).....W. H. Merner
Cedar Rapids (Linn)
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Cherokee (Cherokee).....J. D. F. Smith
Clarion (Wright).....Nagle & Nagle
Clinton (Taylor).....J. K. Plummer
Clinton (Clinton).....George E. Phelps
Cooper (Greene).....Send to Jefferson
Corning (Adams).....D. H. Meyerhoff
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Cresco (Howard).....Willard L. Converse
Creston (Union).....John M. Hays
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Davenport (Scott).....Ira R. Tabor
Dayton (Webster).....J. H. Lindburg
Decorah (Winnebago).....E. F. Barthold
Des Moines (Crawford).....J. F. Conner
Des Moines (Folk)
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Dunlap (Harrison).....T. E. Brady
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Estherville (Emmet).....Geo. W. Adams
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Fonda (Pocahontas).....E. C. Bradshaw

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Fort Madison (Lee).....Watson & Weber
Garner (Hancock).....Ramsay & Blackstone
Glasgow (Jefferson).....Send to Fairfield
Glenwood (Mills).....S. Gilliland
Gidden (Carroll).....Kitt W. Mareau
Gowrie (Webster).....Send to Fort Dodge
Gracetringer (Palo Alto).....Send to Emmetsburg
Grinnell (Foweshick).....Haines & Lyman
Grundy Center (Grundy).....Eliasa A. O'rary
Guthrie Center (Guthrie).....Wm. D. Milligan
Hamburg (Fremont).....Hammond & Stevens
Hampton (Franklin).....Fred. A. Harriman
Harlan (Shelby).....T. E. Mockler
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Humboldt (Humboldt).....Prouty, Coyle & Prouty
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Independence (Buchanan).....E. E. Haaner
Indianola (Warren).....O. C. Brown
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Iowa Falls (Hardin).....Funk & Hutchinson
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La Porte City (Blackhawk).....P. L. Hayslett
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Le Mars (Plymouth).....E. T. SEDELL
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Lockridge (Jefferson).....Send to Fairfield
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Lohrville (Calhoun).....Send to Jefferson
Lorimer (Union).....Send to Creston
Lyons (Clinton).....F. T. Holleran
Madrid (Boone).....Walter Canaday
Mallard (Palo Alto).....Send to Emmetsburg
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Manchester (Delaware).....Fred. B. Blair
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Ocheyedan (Osceola).....B. F. Barnett
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Ottoen (Humboldt).....Send to Bode
Ottumwa (Wapello).....George F. Heindel
Packwood (Jefferson).....Send to Fairfield
Paton (Greene).....Send to Jefferson
Pleasant Plain (Jefferson).....Send to Fairfield
Postville (Allamakee).....F. S. Burling
Preston (Jackson).....Send to Maquoketa
Primghar (O'Brien).....O. H. Montabheimer
Rippey (Greene).....Send to Jefferson
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Shannon City (Union).....Send to Creston
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Toledo (Tama).....W. L. Bouthan
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Wallingford (Emmet).....Send to Estherville
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Altonami (Labette)..... Send to Oswego
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Attorney for Sanford National Bank.
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